Acta Sanctae Sedis

Acts of the Holy See

Holy See; Vatican

An English translation of the Latin edition
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[*Latin ed. p. 1*]

A COMPENDIUM, CONVENIENTLY ARRANGED AND EXPLAINED, OF MATTERS TRANSCRIBED FROM THOSE HELD BEFORE THE HOLY SEE: namely, legal acts and those emanating directly from the Supreme Roman Pontiff with greater solemnity; acts which, among those that can be made public by law, are either Decrees, or Instructions, or Responses, or other similar matters; especially, expositions and resolutions of cases from various Sacred Congregations of Cardinals, carefully compiled to contribute to the accurate understanding and observance of ecclesiastical law; and finally, other legal matters, which are suitably explained to clarify those points in the aforementioned acts that might present difficulty, or to further contribute to the knowledge of existing law: for the benefit of those who diligently seek to understand the laws of the Church, and who labor diligently in the governance of the Christian flock, or in the cultivation of the Lord's vineyard. —Volume III.

ROME, AT THE PRINTING PRESSES OF THE POLYGLOT OFFICE OF THE SACRED CONGREGATION FOR THE PROPAGATION OF THE FAITH, A.D. 1867.

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[*Latin ed. p. 3*]

3. ADDRESS OF OUR MOST HOLY LORD POPE PIUS IX, GIVEN IN A PUBLIC CONSISTORY ON THE 26TH OF JUNE, 1867.

Venerable Brothers. "Indeed, amidst the greatest of Our sorrows, We are filled with joy and consolation when, once again, We have the privilege of seeing you, and of being able to address you in this vast assembly. You, Venerable Brothers, drawn to this City by the expression of Our desires and the impulse of your piety, distinguished by your exceptional devotion, called to share in Our concerns, have nothing more to offer than to lend Us your aid in these calamitous times, in safeguarding all that pertains to the Catholic faith and the salvation of souls, to alleviate Our many anxieties, and to demonstrate, day by day, the strength of your faith, your will, and your obedience towards this See of Peter. We are greatly refreshed by your presence, and We gladly remember this new demonstration and testimony

of your piety and love, of those things which, until this day, you have shown with concordant hearts, with a single purpose, with unwavering dedication, and undeterred by adversity. And this most delightful memory, deeply imprinted in Our heart, and forever remaining there, causes the feeling of Our charity towards all of you to break forth, now more ardent and vivid than ever, with clear testimony and more evident signs, publicly and openly."

[*Latin ed. p. 4*]

4. ADDRESS. "But if this brief recollection of past events so deeply moves and delights Us, We are easily able to understand how great the joy and how ardent the charity with which Our heart is filled today, as We again experience your presence and frequent visits, you, Venerable Brothers, who, having come from even the most distant Catholic provinces, have convened with Us, all moved by piety and love. For nothing could be more pleasing to Us, nothing more delightful, than to be among you, to enjoy the fruit of your union with Us, especially in these solemn occasions, in which all that is presented before our eyes speaks of the unity of the Catholic Church, of the firm foundation of that unity, and of the outstanding effort to defend and preserve it, and its glory. Indeed, it speaks of that admirable unity, through which, as if through a vein, the gifts and graces of the Holy Spirit flow into the mystical Body of Christ, and in its individual members, such examples of faith and charity are aroused, which compel the entire human race to admiration. For, Venerable Brothers, at this time, honors are conferred upon so many illustrious heroes of the Church, many of whom, striving in the glorious contest of martyrdom, others for defending the Apostolic See, in which the center of truth and unity resides, in principalities, others for vindicating the integrity and unity of the faith, and others, having willingly sought a precious death for restoring to the Catholic Church those people torn away by schism, so that the divine Providence may sufficiently shine forth, which, at that very time, presented examples for promoting Catholic unity, and triumphs for those who defend it, when the Catholic faith and the authority of the Apostolic See were contending against the most fierce arts of their enemies. Furthermore, we recall with a most solemn rite the memory of that most auspicious day, on which the Blessed Peter and his co-apostle Paul, eight hundred years ago, in this city, completed their illustrious martyrdom, and consecrated the firm foundation of Catholic unity with their blood. What, therefore, Venerable Brothers, could be more desirable, and more fitting to the triumphs of so many martyrs, than that in their honors, the most beautiful examples and spectacles of the unity of the Catholic Church should shine forth with greater significance and brilliance than ever before? What could be more appropriate than that this very congratulation on the triumphs of the Princes of the

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Apostles, which is offered to all who bear the name of Catholic..."

[*Latin ed. p. 5*]

ADDRESS. "Does it not befit, Venerable Brothers, that this occasion, so full of joy, be celebrated with your presence and devotion? What could be more fitting than that the splendor of so many great things might be made even more brilliant by the addition of your piety and joy?" But not only is this piety appropriate to the circumstances and pleasing to Us, Venerable Brothers, and is this union in harmony with the Apostolic See, but moreover, it is of such great importance that very great and most salutary fruits must necessarily arise from it, either to curb the audacity of the wicked, or for the common benefit of the faithful and of yourselves individually. For from this, those who assail the Religion must understand how vigorous is the life of the Catholic Church, which they ceaselessly strive to attack; they will learn how foolish and misguided it is to accuse it, as if exhausted of strength and nearing its end; and finally, they will realize how poorly they rejoice in their supposed triumphs, and how little they trust in their own plans and endeavors, clearly perceiving that such a powerful force cannot be torn apart, a force which the spirit of Jesus Christ and divine power have united in the rock of the Apostolic confession. Indeed, if ever it must be made clear to all men, especially in this time, Venerable Brothers, that only there can minds be held together with the closest bond, where one and the same Spirit of God governs all; but that, if God is forsaken, and the authority of the Church is scorned, men, deprived of that happiness which they seek through wickedness, will miserably rejoice in the most turbulent storms and divisions. "But if the common good of the faithful is considered, what, Venerable Brothers, could be more opportune and beneficial for the increase of obedience to Us and to the Apostolic See among the Catholic peoples, than if they see how much their pastors uphold the rights and sanctity of Catholic unity, and for that reason, they see them travel great distances over land and sea, undeterred by any inconveniences, in order to come to the Roman See, to revere the successor of Peter in the person of Our humility, and the Vicar of Christ on earth? Indeed, through this authority of example, they will recognize far better than through any subtle doctrine, how they ought to show veneration, obedience, and submission to Us; for in the person of Peter, Our Lord said: "Feed my sheep, feed my lambs," and with those words, the greatest concern and power was entrusted and committed to the entire Church."

[*Latin ed. p. 6*]

6. ADDRESS. "Moreover, you yourselves, Venerable Brothers, in the exercise of your sacred ministry, will derive a notable benefit from this observance towards the Apostolic See. For the more closely you are bound by the bonds of faith and love to the cornerstone of the building, so much more,

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as the memory of all times of the Church teaches, will you be imbued with that strength and fortitude which is required by the magnitude of your ministry against hostile attacks and adversities. What else did Christ the Lord intend when, appointing Peter as the guardian of the brethren's firmness, He said, "But I have prayed for thee, that thy faith fail not: and thou, being once converted, confirm thy brethren" (Luke 22:32)? Indeed, as Saint Leo M. indicated, "A special care is bestowed upon Peter by the Lord, and prayer is made specifically for Peter's faith, as if the state of others will be more certain if the mind of the Prince is not overcome. Therefore, in Peter, the strength of all is fortified, and the help of divine grace is so ordered that the firmness which is granted to Peter through Christ is conferred by Peter upon the other apostles" (2). Therefore, We have always been persuaded that there could not fail to be in you, at all times, a certain increase of that strength with which Peter is abundantly endowed by the Lord's special gift, whenever you are present near the person of Peter, who lives in his successors, and when you touch only this city, which I have watered with the sweat and triumphant blood of the holy Apostles. Indeed, Venerable Brothers, We have never doubted that from the very tomb, where the ashes of the most blessed Peter rest eternally for the religion of the world, there exists a certain secret power and salutary virtue, which inspires pastors of the flock of Dominic with courage, great spirit, and magnanimous sentiments, and which, with renewed strength, causes the impudent audacity of the enemies to be resisted, and to fall, with equal struggle, before the virtue and power of Catholic unity." For what, Venerable Brothers, do We conceal from you? For a long time, We have been engaged in battle against cunning and fierce enemies in defense of justice and religion. Such a long and great struggle is being waged that all those who are considered to be united in the sacred militia do not seem to have forces sufficient in number to resist. We, for the cause of the Church, for liberty..."

[*Latin ed. p. 7*]

ADDRESS. And, defending, for the sake of the supreme office which We hold, the rights thereof, until this day, with the help of Almighty God, We have remained safe from grievous perils; but nevertheless, We are still caught up and tossed about by adverse winds and waves, not fearing shipwreck, which the present help of Christ our Lord does not allow us to fear, but deeply grieved by so many novelties of doctrine, so many impious acts committed against the Church itself and the Apostolic See, which, indeed, have already been condemned and rejected (1), We now openly again reject and condemn, for the sake of the sacred office which We hold. However, considering the present time, and the joy which We feel in your presence, We do not wish to omit mentioning the many anxieties, cares, and sorrows which torment and wound Our heart with a grievous and lasting pain. Rather, We shall bring all these things before the altar, which We have

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constantly brought before You with our prayers, which We have watered with our tears; We shall open them again and reveal them to the Most Clement Father of Mercies, trusting entirely in Him who knows how to protect and preserve the safety and glory of His Church, and who, judging all those who have suffered injury on Our account and those who oppose Us, will, in due time, render a just judgment.

In the meantime, Venerable Brothers, you rightly understand, by your wisdom, how greatly it is necessary to resist the designs of the wicked and to heal the many wounds of the Church, so that the concord which exists among you all with Us and with this Apostolic See may be strengthened more and more with deep roots. Indeed, this love of Catholic union, which, once it takes hold in souls, spreads widely for the benefit of others, certainly does not allow you to rest, unless you strive together, in the same Catholic concord and with undivided faith, hope, and charity, to ensure that all those men who are under your leadership, and all the faithful entrusted to you, work together. Surely, no spectacle can be more pleasing to the eyes of angels and men than if, in this pilgrimage of ours, in which We are going from exile to our homeland, the image of unity is reflected and the order of that pilgrimage is imitated, in which the twelve tribes of Israel, united in their journeys, strove towards the happy shores of the Promise. For they all entered, each one distinct, but united.

(1) Alloc. Consist. 29 Oct. 1866.

[*Latin ed. p. 8*]

8. ADDRESS. To those who, though distinguished by names, separated by places, and subject to their own families, were nevertheless one people, worshipping the same God and offering sacrifices at the same altar; one people who obeyed the same laws, the same High Priest Aaron, the same lawgiver Moses; one people who shared equally in the labors of war and the fruits of victory; one people, finally, who, whether engaged in agricultural pursuits or marveling at abundant food, offered the same concordant prayers to the same goal. We are quite certain and assured that you will strive perpetually to maintain this union, having already received so many pledges of your faith and concord. This is promised to us by your integrity and outstanding virtue, which have always shone brightly everywhere, and have surpassed every danger; it is promised by the great zeal and fervor that impel you to care for the eternal salvation of men and to increase the glory of God; and finally, it is promised most certainly by that sublime prayer which Christ Himself offered to the Father before His final torments, praying "That they all may be one, as thou, Father, in me, and I in thee; that they also may be one in us: that the world may believe that thou hast sent me." (John 17:21) To this prayer, it is impossible that the Divine Father should not assent. To us, Venerable Brothers, nothing is more desirable than to obtain from this very union with the Apostolic

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See the fruit which we consider to be most salutary and beneficial for the entire Church. For a long time, we have been considering, and this has been known to many of our Venerable Brothers, and we trust that, when the opportune moment arrives, we will be able to bring about, indeed, a sacred, ecumenical, and general Council of all the Catholic Bishops of the world, so that, after exchanging counsel and united in purpose, necessary and salutary remedies may be applied, especially to those evils which afflict the Church, with God's help. We have great hope that, through this, the light of Catholic truth will dispel the darkness of errors that envelop the minds of mortals, so that, with the grace of God, they may recognize and follow the true path to salvation and justice. Furthermore, through this, the Church will be like... (John 17:21).

[*Latin ed. p. 9*]

ADDRESS. "May the invincible army of the faithful, arranged in order, repel the hostile efforts of the enemies, break their force, and, triumphing, may the Kingdom of Jesus Christ on earth be spread far and wide." Now, that Our wishes may be fulfilled, and that Our cares, and those of you, may bring abundant fruits of justice to the Christian people, let us raise our eyes to God, the source of all justice and goodness, in Whom all fullness of help and the abundance of grace are placed for those who hope. Since we have Jesus Christ, the Son of God, as our Advocate with the Father, the great High Priest who has entered Heaven, who always lives and intercedes for us, and who is with us every day in the admirable Sacrament of the Eucharist until the consummation of the age, let us place this most beloved Redeemer, Venerable Brothers, as a sign upon our heart, as a sign upon our arm, and let us constantly offer our prayers with all confidence at that altar, where He Himself, the Author of grace, has established the throne of mercy, where He eagerly awaits those who are weary and burdened, desiring to be refreshed. Let us therefore humbly and without ceasing beseech Him, that He may deliver His Church from such calamities and from all harm, and that He may grant her the joyful return of peace, and victory over her enemies, that He may add strength to us and to you, so that we may glorify His Name, that He may inflame the hearts of men with the fire that He came to bring into the world, and that He may, by His powerful virtue, convert all who are wandering to salutary purposes. And it will be the duty of your piety, Venerable Brothers, to strive with all your might that those entrusted to you may grow daily in the knowledge of our Lord Jesus Christ, and that they may venerate Him with steadfast faith in the august Sacrament, and that they may amend and frequently visit Him; and there will be nothing more worthy of your study and care than that, while those who watch at His altar may keep vigil, so too may the grateful sense of piety remain vigilant in the hearts of the faithful, and may the flame of charity burn without ceasing. Moreover, that God may incline His ear favorably

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to our supplications, let us always and earnestly ask for the intercession of the Virgin Mary, the Immaculate Mother of God, whose patronage is the most powerful with God; then of the holy Apostles Peter and Paul, whose feast we are about to celebrate; and also of all the saints in Heaven, who, reigning with Christ in Heaven, obtain divine blessings for men through their prayers.

[*Latin ed. p. 10*]

10 ADDRESS. "Finally, to you, Venerable Brothers, and to all other Venerable Bishops of the Catholic nations, and also to all the faithful entrusted to your and their care, from whom we have always received outstanding testimonies of piety and love, and whom we continually experience, we impart our Apostolic Blessing to each and every one of you, joined with every wish for happiness, from the depths of our heart, most affectionately."

[*Latin ed. p. 11*]

The following is the address given in the Vatican by Our Most Holy Father, Pope Pius IX, Divine Providence, on the 25th of June, 1865, to the Catholic priests who had come to Rome for the anniversary celebrations of the Holy Apostles Peter and Paul, and for the canonization of the martyrs Josaphat, Archbishop of Polotsk, Peter Arbuesii, Nicholas Pichi, and their twenty-eight companions; and of the confessors Paul of the Cross, Leonard of Port Maurice, and the Virgins Mary Francis of the Wounds of Our Lord Jesus Christ, and Germana Cousin.

"It is most pleasing to Us to see your great and remarkable presence, beloved sons, who, following the footsteps of your superiors, adorned with the most holy priesthood, have come to Us, and to this Roman See of the Blessed Apostle Peter, the Prince of the Apostles, with such eagerness at this auspicious time. Indeed, this devotion, piety, and obedience of yours towards Us, and towards this same See, brings Us the greatest consolation amidst the most grievous afflictions with which We are burdened. Therefore, nothing is more pleasing to Us than to address you with the deepest affection of Our paternal heart, you who, having been enlisted in the army of God, and called to the service of the Lord, have chosen the Lord Himself as a part of your inheritance. You are those whom God has, by a singular grace, raised to the exalted dignity of the priesthood within His Church, and has separated from all people, and joined to Himself, that you may serve the Lord, and stand before the multitude of the people, and minister to them, and offer to God prayers, supplications, and a pure, holy, and unblemished sacrifice for your own salvation, and for that of the whole world. Through you, therefore, you yourselves know that nothing can be more pleasing to you than gravity of conduct, innocence of life, integrity,

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chastity, and all virtues."

[*Latin ed. p. 12*]

12. ADDRESS. May you daily shine more and more with virtue, and especially with the knowledge of sacred disciplines, so that you may bravely fight against the enemies of the human race, and strive to procure greater glory for God, and the salvation of souls. See to it, brothers, that you fulfill the ministry which you have received from the Lord, especially in these times of such hardship, and such a conspiracy of enemies against our holy religion, and such a flood of errors. Therefore, beloved sons, bound together by the closest bond of charity, and emulating the illustrious examples of your superiors, labor diligently under their guidance as good soldiers of Jesus Christ. Therefore, having returned from this city to your dioceses, strive diligently and piously to fulfill all parts of your sacred ministry, and especially to those entrusted to your care, instill Catholic unity, and doctrine, and due obedience, reverence, and respect for this See of Peter, the Mother and Mistress of all the Churches, and its teachings, lest they be carried away by every wind of doctrine, in the deceit of men, in cunning, for the purpose of subverting the truth. You, as interpreters of the divine word, ought to evangelize, and indeed, continually proclaim the Gospel of God, both to the wise and to the foolish; and not now in lofty language, but in the spirit, preach Jesus Christ, and Him crucified; and never cease to draw back those who are wandering to the path of salvation, and exhort all in sound doctrine. But since you are stewards of the mysteries, and of the manifold grace of God, strive by all the means of the sacred rites to provide for the Christian people entrusted to you, and especially the sick, so that nothing may ever be lacking to them, so that they, who are already struggling with death, may more easily ward off the snares of the devil, and avoid his arrows. While you do these things, be careful not to withhold milk from the little ones; rather, nothing should be more dear to you than to patiently teach the fundamentals of faith and the discipline of morals to young children, and to form them in all piety and virtue. Moreover, with the utmost care, offer the assistance of your work to your superiors, and obey them with that reverence which is due, and take care of all things, so that what is infirm in each of your dioceses may be healed, what is broken may be bound up, what is cast down may be raised up, and what is lost may be sought out (2), so that God may be glorified in all things through Jesus Christ. (1) Colossians 4:17. — (2) Ezekiel 34:5.

[*Latin ed. p. 13*]

ADDRESS. 18th [day of the month]. With sincere devotion, contemplate that imperishable glory which the Lord, the just Judge, will bestow upon you if He finds you to be unblemished workers on that great day, a day bitter to the wicked, but joyous, indeed most delightful, to the righteous.

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Let this thought encourage you in the proper fulfillment of the duties of your ministry, support you in your labors, and strengthen you in the execution of the commands of God and His holy Church. Do not cease to offer fervent prayers to God for the triumph and peace of His Church, and for the salvation of all men, and always implore Him that His divine grace may assist your efforts to procure greater glory for His holy name everywhere. And that God may more readily grant your petitions, first approach Him through the Immaculate Virgin Mary, whose protection is so powerful, and whose maternal love extends to us; then, especially, through the most blessed Apostles Peter and Paul, and all the saints in Heaven, who, having followed the footsteps of Christ, have already won triumphant crowns, and who always listen attentively to our vows and prayers, and who readily intercede for us, so that we may one day share in the same glory. Finally, beloved sons, under the auspices of all the heavenly hosts, and as a pledge of Our deepest affection, We impart to you, and to those entrusted to your care, Our Apostolic Blessing, sincerely and earnestly bestowed. Furthermore, We grant permission that, on a day designated by each of your own Bishops, those from your regions who have come here may once receive the Apostolic Blessing, together with a plenary indulgence, provided that the faithful have first reconciled themselves through sacramental Confession, and have been strengthened by the Holy Eucharist, and have poured forth fervent prayers to God for the exaltation and triumph of Holy Mother Church."

NOTICE. "The Apostolic Blessing, of which mention is made above, shall be given in the usual form of the Church, and may be conferred only by those who are either parish priests, or assistants to parish priests, or directors of religious houses, or other pious institutions, or of institutions for the education of Christian youth, or of hospitals, or of penal institutions."

[*Latin ed. p. 14*]

By the Divine Providence of Our Most Holy Lord Pope Pius IX, a Homily was delivered in the Basilica of the Vatican during the Solemn Masses on the 29th of June, 1867, on the secular Feast of the Holy Apostles Peter and Paul, and the Canonization of twenty-one Martyrs and Confessors: Paulinus Cruce Leonardus of Port Maurice, and the Virgins Maria Panciscia of the Wounds of Our Lord Jesus Christ, and Germana Cousin.

"Most esteemed, Venerable Brothers, and beloved Sons, the day has arrived when We have been granted, by a singular benefit of God, to celebrate the secular solemnities of the Blessed Peter, Prince of the Apostles, and of his co-Apostle Paul, and to bestow the cult and honors of Saints upon many heroes of our Holy Religion. Therefore, let us rejoice in the Lord, and let us be filled with spiritual joy, as the glorious day returns, a day to be cherished and celebrated with reverence and joy throughout the entire

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Catholic world, and especially in this our city. For on this solemn day, Peter and Paul, lights of the Church, Martyrs of the highest order, Doctors of the Law, friends of the Bridegroom, eyes of the Bride, pastors of the flock, guardians of the world, ascended to the heavenly realms through a blessed martyrdom (1). These are the men through whom, Rome, the Gospel of Christ has shone forth, and who, once the teacher of error, have made you a disciple of truth; these are the ones who have prepared you for insertion into the heavenly kingdoms much better, and much more happily, than those through whom the foundations of your walls were first laid (1). *S. Petrus Dam. Serra. 27 de SS. Apost. Petr. et Paul.*"

[*Latin ed. p. 15*]

HOMILY. Eighteen are here. These are those who have led you to this glory, so that you might preside more widely over the holy race, the chosen people, the priestly nation, and the royal priesthood, through the sacred See of Blessed Peter, the head of the world, in divine religion, rather than in earthly dominion (1). These are joined men, having splendid garments, men of mercy, and our true fathers, and true pastors, who have begotten us through the Gospel. But who is more glorious than Peter? He who, illuminated by divine light, was the first of all to recognize Him, and made manifest to all the highest mystery of eternal Majesty, and by confessing Christ to be the Son of the living God, established for us the most solid and invincible foundations of faith (2). He himself is the firm rock, upon which the Son of the eternal Father has founded His Church with such solidity, that the gates of hell shall never prevail against it. To them were given by the Lord Christ the keys of the kingdom of heaven, and the supreme power was entrusted to them, and the care of feeding the sheep and the goats, of confirming the brethren, and of governing the entire Church, and whose faith shall never fail, neither in their successors, who are placed in this Roman Chair. Who is more blessed than Paul? He who was chosen by the Lord to bear His name before the Gentiles, and before kings, and before the children of Israel (3), and who, for the sake of the reward of his virtues, was caught up to heaven, and learned heavenly secrets, to be a doctor of the churches among the angels, which he would teach among men (4). These most blessed Peter and Paul, preaching the sacrament of the new law with one spirit, having constantly endured all dangers, difficulties, labors, punishments, torments, for the sake of the Lord, spread the name and religion of Christ among the Gentiles, and overcame pagan philosophy, and overthrew idolatry from its throne, and by their most holy deeds and writings, spread the light of the evangelical truth far and wide, so that the sound of them went forth into all the earth, and the words of them, and in one day of passion, they consecrated their doctrine with their pious blood and their most powerful death. Therefore, Venerable Brothers, and beloved sons, celebrating the glory of these Apostles with solemn rites and with

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great joy, and honoring their sacred relics, to which we happily stand, with all reverence, let us...

(1) S. Leo, Sermon 8, chapter 80, on the Feast of the Apostles Peter and Paul.

(2) S. Maximus, Homily 68, on the Feast of the Apostles Peter and Paul.

(3) Acts of the Apostles, chapter 9, verse 15.

(4) S. Maximus, ibid.

[*Latin ed. p. 16*]

16 HOMILY: We proclaim the deeds of these individuals through our sermons, and above all, we strive to imitate their virtues with all our effort. "Indeed, we are filled with great joy, since God has granted us, on this most blessed day of the Saints, the opportunity to honor the unconquered Martyrs of Christ: Iosaphat Kuncevicio, the Bishop of Polotsk among the Ruthenians; Peter Arbuesio; Nicholas Pichio; and with them, their twenty-eight companions; and the two most glorious Confessors, Paul of the Cross, Leonardo of the Port; and the two most renowned Virgins, Mary Francis of the Wounds of Our Lord Jesus Christ, and Germana Cousin. All of these, although surrounded by the same human weakness and being pilgrims here on earth, subjected to many tribulations and dangers, yet, with unwavering faith in God, and with the firmest and greatest charity, and with equal love for their neighbor, bearing in Christ's body the marks of His suffering, and conformed to the image of the Son of God, having endured the most grievous trials for the love of Christ, in the flesh, in the world, and against the most cruel demon, they triumphed gloriously; and with the splendor of holiness, they illuminated the Catholic Church, and they left us the clearest examples of all virtues to be imitated. Now, made friends of God in the heavenly Jerusalem, they rejoice in glory, clothed in white robes, and are intoxicated by the abundance of the house of God, because the Lord rejoices in them with joy, and He satisfies them with the delights of His countenance, and crowned as they are, shining like the sun, they possess the palm, and they reign with Christ forever, and they pray for us, secure in their own immortality, yet still concerned for our salvation."

Therefore, Venerable Brothers and beloved Sons, let us give thanks to the Lord for all consolation, because, amidst the many calamities and dangers that afflict the Church and civil society, He has deigned to grant us, through these most illustrious Martyrs, Confessors, and Virgins, new and powerful defenses for His holy Church, and shining examples of virtues for the faithful people. Let us, with the utmost diligence, follow the footsteps of these Saints, and therefore, inflamed more and more each day with the same spirit of faith, hope, and charity in God, let us despise earthly things, and look only to heavenly things, and let us walk with more eager steps on the paths of the Lord, and, renouncing worldly desires, let us live soberly,

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justly, and piously, and let us all, united, compassionate, and lovers of fraternity, strive...

[*Latin ed. p. 17*]

HOMILY. 17. "Let us strive, through good works, to make certain our vocation and our election." But now, let us, with all humility and confidence, raise our eyes to You, O Lord God, Who are rich in mercy, and Who manifest Your omnipotence by being both merciful and just; look favorably upon and regard Your holy Church, so greatly shaken on all sides by storms, and human society so agitated by turmoil; and through the merits of Your Apostles Peter and Paul, and of these martyrs, confessors, and virgins, turn away Your wrath from us, and multiply Your mercy upon us; and by Your almighty power, may the Church, triumphing over its enemies, prosper and flourish more and more throughout the earth; and may all peoples, having cast out all errors, and having overthrown all vices, come together in unity of faith and knowledge of Your Son, Our Lord Jesus Christ; and may Your divine right hand protect and defend this city from all conspiracies and gatherings of its enemies."

"PRAYER OF THE BISHOPS TO THE HOLY FATHER. MOST BLESSED FATHER! "Your Apostolic voice has once again resounded in our ears, announcing a new triumph of eternal truth, the glorious splendor of the saints in heaven, and the venerable beauty of the eternal city, consecrated by the blood of the Blessed Apostles Peter and Paul, whose memory, returning year after year, fills all of Christendom with joy today, and elevates the minds of the faithful to the contemplation of the most important matters. "We could not fail to perceive the most delightful words of the Apostolic mouth, inviting us to such feasts, without the solemn memories immediately coming to mind, which, (fifty) years ago, the sacred prelates of Rome, whose names are mentioned below, subscribed to with a gesture of obedience to the Roman Pontiff and the Apostolic See, Volume III, Section XXV, and also to the response that followed from the Roman Pontiff. 2"

[*Latin ed. p. 18*]

18. THE BISHOPS' PRAYER TO THE POPE. "While standing before Your side in the city, we remember with gratitude how You treated us then with kindness and humanity, and how You embraced us with paternal charity during that most blessed celebration. This sweet memory, this voice of our most beloved Father, which is not so much a command as a desire, has added zeal to our hearts to undertake this journey to Rome, which, Most Blessed Father! this very large gathering of bishops, who have come to You for the third time, and the common piety and faithful devotion of all, clearly demonstrate. Only Your charity and benevolence towards us can be equal to this immense number of bishops, for which scarcely anything similar can be found in the memory of past ages. And for these

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reasons, we are more strongly moved today to publicly testify before You, before the sun, with reiterated love and admiration, to follow Your most excellent example in illuminating the Apostolic See with new light and in honoring Your august person, amidst the heavy burdens which You bear, but which do not shake You. » But while we are moved by Your wishes, we also look forward to another most desirable outcome, namely, that our hearts, so afflicted by the evils of the Church, may be refreshed by the sight of Your paternal countenance, that we may strengthen fraternal concord among ourselves, and that we may seek common solace and joy for You and for us. » And for this cause of rejoicing, You provide the greatest benefit for us, as You inscribe the names of so many new saints in the annals of the Church, powerfully teaching men how fertile and inexhaustible is the fruitfulness of the Mother Church. This is adorned by the glorious blood of triumphant martyrs, this is clothed in the white purity of unwavering confession, and this is not lacking in roses or lilies. You, showing to mortals the rewards of heavenly virtues, teach them to raise their eyes from the contemplation of vain things to the delightful glory of heaven. You, while men rejoice in the marvelous works of their own ingenuity and industry, raising the triumphant banner of the saints of God, You remind them that, even though it has been said to them, "Subdue the earth and rule," they should never forget that supreme commandment, "You shall worship the Lord your God and serve Him alone."

[*Latin ed. p. 19*]

THE BISHOPS' PRAYER TO THE POPE. 19. "But those who, beholding the heavenly Jerusalem, which displays the glory of new saints, acknowledge and confess the wonders of the Lord with a humble heart, are even more inflamed to celebrate these things, as we contemplate, in this present secular solemnity, the steadfastness of that rock, upon which the Lord and our Redeemer established the foundation and perpetuity of His Church. For we perceive by divine power that the Chair of Peter, the organ of truth, the center of unity, the foundation and bulwark of the liberty of the Church, has remained firm and secure for eighteen centuries now, amidst all adversities and without interruption from the assaults of enemies; while kingdoms and empires rise and fall in turn, it stands as a secure beacon in the stormy sea of mortal life, guiding the way and demonstrating by its light a safe haven and port of salvation. " Guided by this faith, and with these sentiments, we spoke before, Most Blessed Father! when, five years ago, standing before Your throne and rendering due testimony to Your sublime ministry, we openly proclaimed our vows for You, for Your civil authority, and for the cause of justice and religion. Guided by this faith, we professed at that time the words of Scripture, that nothing is more precious and ancient to us than those things which You yourself believe and teach; we reject those errors which You reject, and we, following You as our leader,

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walk unitedly in the ways of the Lord, following You, working for You, and ready to contend with You for the Lord in every trial and fortune. We now reaffirm all that we declared then, with the most pious sentiments of our hearts, and we desire that this be testified to the entire world; remembering with gratitude, and with full and praising assent, all that You have accomplished for the salvation of the faithful and for the glory of the Church from that time forward. " For as Peter once said, "For we cannot but speak the things which we have seen and heard," so You also have held and hold, and clearly demonstrate that You will never cease to hold, a sacred and solemn attitude. For You have never been silent. You proclaim eternal truths, You wield the sword of apostolic eloquence to vanquish the errors of the age, to refute the natural and supernatural order of things, and to combat those who threaten to undermine the very foundations of ecclesiastical and civil authority. You dispel the darkness of new doctrines that obscure the minds of men, and You promote those things that are necessary and salutary for..."

[*Latin ed. p. 20*]

TO THE HOLY FATHER, THE PRAYER OF BISHOPS. We have judged it right, with boldness, to declare, to advise, and to commend to Your Most Holy Person the supreme duties of Your ministry; so that all may understand what it is that a Catholic ought to hold, to preserve, and to profess. For this outstanding concern, we give You our greatest thanks, and we shall have eternal gratitude; and believing that Peter has spoken through the mouth of Pius, concerning those things which have been said, confirmed, and proposed by You for the safeguarding of the deposit of faith, we also say, we confirm, we announce, and with one voice and one mind, we reject all those things which are contrary to the divine faith, to the salvation of souls, and to the good of human society, which You Yourself have judged to be reprehensible and to be rejected. For it is firmly established, and deeply rooted in our minds, that the Fathers of Florence, in the decree of Union, unanimously defined: "That the Roman Pontiff exists as the Vicar of Christ, the head of the whole Church, and the Father and Doctor of all Christians, and that to him has been fully entrusted by Our Lord Jesus Christ the power of feeding, governing, and guiding the Universal Church."

But there are other things, moreover, which stir up in us feelings of love and gratitude for You. For with great delight we admire that heroic virtue with which, resisting the pernicious machinations of the age, You strive to preserve the flock of the Lord in the way of salvation, to protect it against the seductions of error, and to defend it against the power of the potentates and the cunning of false philosophers. We admire that tireless zeal with which You have never ceased to promote the welfare of the entire Church, embracing the peoples of the East and West with apostolic care. We admire that magnificent example which You exhibit as a good Shepherd

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to a human race that is daily falling into ruin, piercing even the hearts of those who are enemies of the truth, and turning their eyes to You, even unwillingly, through the very excellence and dignity of things.

Therefore, continue to exercise the vicarious power of the Shepherd of Shepherds, trusting in Your divine ministry; continue to feed the sheep entrusted to You with the supports of eternal life; continue to heal the contrite of Israel, and to seek out those of Christ who are lost. May Almighty God grant that those who, unmindful of Your love and of Your service, still resist Your voice, may, following better counsel, finally return to You, and may Your sorrow be converted into joy. May the fruits of Your pastoral care, inspired by divine goodness, increase day by day.

[*Latin ed. p. 21*]

THE BISHOPS' PRAYER TO THE POPE. May the conversion of souls, which God daily works through Your Holiness, be ever more and more increased; and may you, through the power of Your virtues and the glorious success of Your labors in bringing souls to Christ, and in extending the boundaries of His kingdom, be able truly to exclaim with the Lord and Master: "All that the Father giveth to me shall come to me." Indeed, Most Blessed Father! These are signs of a salutary and more blessed age. Witness is that love which the faithful of all nations readily demonstrate, being prepared to expend for Your Holiness all their strength of body and mind, and indeed their very lives, for the sake of the rights of the Church and for the glory of the Apostolic See. Witness is that reverent regard of Catholic minds, which eagerly behold You as the supreme Pastor, which joyfully receive the decrees of the Apostolic See, and which glory in adhering to them with the firmest assent and obedience. Witness is that filial disposition of mind, by which the Christian people, following the example of the faithful who formerly freely offered their resources at the feet of the Apostles, have hitherto met the needs of Your Holiness, and do not cease to strive to alleviate them continually. We perceive these filial expressions of piety deeply moved within our hearts, and we shall always strive to ensure that this sacred fire, kindled in the hearts of the faithful, be fostered and flourish, and that, animated by our example and that of the entire clergy, all may promote that most admirable will and generosity, and may provide temporal assistance to Your Holiness for the fuller attainment of their eternal salvation. But, Most Blessed Father! We derive a particular joy from that faith, that love, and that obedience, with which the citizens of the eternal City, worthy of eternal citizenship, embrace You as their Father, as their most merciful Prince. Happy and truly wise people! Who know what abundance and glory flow to them from the See of Peter established in the City, who understand that there are no limits to the divine benevolence towards them, other than those which they themselves establish in their obedience to the Vicar of Christ and in their love for the Most Holy Prince.

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May the Roman people aspire to this, may they follow this; may this piety be constant, may it be unwavering; may this Roman City, which the Christian world recognizes as its leader and its example, shine forth to all, may it flourish with heavenly graces and gifts, may it be blessed with virtues and abundance.

[*Latin ed. p. 22*]

22. THE BISHOPS' PRAYER TO THE POPE. "Most Blessed Father! The splendor of Your Pontificate has illuminated not only Your City, but the entire world, and this admiration moves us so deeply that we believe that an example should be drawn from it for the sacred ministry. "But no less does Your voice, so sweetly shining, penetrate the depths of our hearts, than the image of Your pontifical virtues pierces our souls. "Therefore, our hearts are filled with great joy, as we understand from Your sacred mouth that, amidst the divisions of the present time, You are so determined to be, as Your illustrious predecessor Paul III said, the greatest remedy for the greatest perils of the Christian cause, by convening an ecumenical council. "May God grant success to this Your purpose, which He Himself has inspired in You; and may the men of our time, who are weak in faith, always learning and never reaching the knowledge of truth, and who are carried about by every wind of doctrine, have in this sacred Synodus a new and most opportune opportunity to approach the holy Church, the pillar and foundation of truth, to know the saving faith, to reject pernicious errors; and may it be, with the merciful and reconciling Virgin Mary Immaculate, that this Synodus may be a great work of unity, sanctification, and peace, from which a new splendor may abound in the Church, and a new triumph of the Kingdom of God may be achieved. "And may these immense benefits, through the work of Your providence, be again demonstrated to the world, which are assured to human society through the Roman Pontificate. May it be clear to all that the Church, because it is founded upon the most solid Rock, is so strong that it can dispel errors, correct morals, restrain barbarism, and is rightly called and is the mother of civil humanity. May it be clear to the world that, through the divine authority and the obedience due to it, manifestly given in the divine institution of the Pontificate, all things are established and made sacred, which strengthen and preserve the foundations and duration of societies. "And when princes and peoples perceive this, they will not allow Your most august right, the surest guarantee of all authority and of all rights, to be trampled upon with impunity; rather, they will take care that Your freedom and the power of freedom are maintained; they will provide assistance for Your sublime and, for them, most beneficial ministry; and they will not tolerate that..."

[*Latin ed. p. 23*]

THE BISHOPS' PRAYER TO THE POPE. "May Your voice be prohib-

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ited from the flocks of the holy Church, lest, deprived of the nourishment of eternal truths, they miserably wither, or that the bonds of obedience and reverence towards the divine Magisterium, which resides in You, be loosened among them, and that also that authority, by which kings reign and lawgivers justly decree, be weakened to the certain detriment of the civil order." This is our hope, which we cherish in our hearts. This is the constant argument of our prayers, and it always will be." Therefore, be of good cheer, Most Blessed Father! Guide the ship of the Church through the storms, as You have done, with Your hand towards the harbor. The Mother of divine grace, whom You have saluted with the most beautiful title of honor, will protect Your path with the help of her intercession. She will be a star of the sea for You, which, with unwavering confidence, as is Your custom, You will direct towards Him who wished to come to us through her. You will have the heavenly choirs of Saints as allies, whose blessed glory You have announced to the rejoicing world, both in these days and before. May the Princes of the Apostles, Peter and Paul, assist You, supporting Your concerns with their powerful prayers. Peter once sat in the prow, which You now occupy; he will intercede with the Lord, that this ship, aided by his prayers, may happily navigate the high seas of human life for eighteen centuries, under Your guidance, laden with the rich spoils of immortal souls, and may enter the heavenly harbor with full sails. And so that this may come to pass, we, Your faithful, devoted, and zealous companions, pray that divine clemency may preserve You, and that You may be increased with all heavenly blessings; that Your life may be rich in the fruits of souls each day, that it may be long-lived on earth, and that it may one day be blessed in heaven!"

Signed:

Marius Cardinal Mattei, Bishop of Ostia and Velletri, and Dean of the Holy College.

Constantinus Cardinal Patrizi, Bishop of Porto and Santa Rufina.

Aloisius Cardinal Amat, Bishop of Praeneste.

Ludovicus Cardinal Altieri, Bishop of Albano.

Nicolaus Cardinal Garelli Paracciani, Bishop of Tusculum.

Philippus Cardinal De Angelis, Archbishop of Fermo.

Engelbertus Cardinal Sterckx, Archbishop of Mechlin.

Aloisius Cardinal Vannicelli Casoni, Archbishop of Ferrara.

Cosmas Cardinal Corsi, Archbishop of Pisa.

Dominicus Cardinal Carafa de Traetto, Archbishop of Benevento.

[*Latin ed. p. 24*]

SUBSCRIPTIONS.

His Eminence Xistus Cardinal Riario Sforza, Archbishop of Naples.

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His Eminence James Mary Cardinal Mathieu, Archbishop of Besançon.

His Eminence Francis Augustus Cardinal Donnet, Archbishop of Bordeaux.

His Eminence Charles Aloysius Cardinal Morichini, Bishop of Aesi.

His Eminence Joachim Cardinal Pecci, Bishop of Perugia.

His Eminence Anthony Benedict Cardinal Antonucci, Bishop of Ancona.

His Eminence Henry Cardinal Orfei, Archbishop of Ravenna, and Administrator of the Diocese of Cesena.

His Eminence Joseph Mary Cardinal Milesi, Abbot of the Three Fountains.

His Eminence Michael Cardinal Garcia Cuesta, Archbishop of Compostela.

His Eminence Joseph Aloysius Cardinal Trevisanato, Patriarch of Venice.

His Eminence Lewis Cardinal De la Lastra-y-Cuesta, Archbishop of Seville.

His Eminence Philip Mary Cardinal Guidi, Archbishop of Bologna.

His Eminence Henry Mary Cardinal De Bonnechose, Archbishop of Reims.

His Eminence Paul Cardinal Cullen, Archbishop of Dublin.

His Eminence Roger Aloysius Antici Mattei, Patriarch of Constantinople.

His Eminence Paul Ballerini, Patriarch of Alexandria.

His Eminence Paul Peter Mashad, Patriarch of Antioch, Melkite.

His Eminence Gregory Joseph, Patriarch of Antioch, Greek Rite, Melchite.

His Eminence Joseph Valerga, Patriarch of Jerusalem.

His Eminence Thomas Iglesias y Barcones, Patriarch of the Indies, Western Rite.

His Eminence Anthony Hassun, Primate of Constantinople, Armenian Rite.

His Eminence John Simor, Primate of the Kingdom of Hungary, Archbishop of Strigonia.

His Eminence Aloysius Maria Cardelli, Archbishop of Acra.

His Eminence Lawrence Trioche, Archbishop of Babylon.

His Eminence Meletius, Archbishop of Drabish, Greek Rite.

His Eminence Peter Apelian, Archbishop of Marash, Armenian Rite.

His Eminence Ignatius Kalybgian, Archbishop of Amasia, Armenian Rite.

His Eminence Peter Richard Kenrick, Archbishop of St. Louis.

His Eminence Peter Cilento, Archbishop of Rossano.

His Eminence Alexander Asinari de Sanmarzano, Archbishop of Eph-

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esus.

His Eminence Alexander Angeloni, Archbishop of Urbino.

His Eminence George Hurmuz, Archbishop of Siun, Armenian Rite.

His Eminence Aloysius Clementi, Archbishop of Epis, Armenian Rite.

His Eminence Felicissime Salvini, Archbishop of Camerino.

His Eminence Edward Hurmuz, Archbishop of Sirac, Armenian Rite.

His Eminence Raphael d'Ambrosio, Archbishop of Durrës.

His Eminence Julius Arrigoni, Archbishop of Lucca.

His Eminence Joseph de Bianchi Dottula, Archbishop of Trani, Nazianzen, and Barletta.

His Eminence Eustachius Gonella, Archbishop, Bishop of Yiterbie and Tuscany.

His Eminence Joseph Rotundo, Archbishop of Taranto.

His Eminence Gregory De Luca, Archbishop of Compsa, Administrator of Campania.

His Eminence John Hagian, Archbishop of Caesarea, Armenian Rite.

His Eminence John Baptist Purcell, Archbishop of Cincinnati.

His Eminence Renatus Francis Régnier, Archbishop of Camerac.

His Eminence Maximilian De Tarnoczy, Archbishop of Salisbury.

His Eminence Beniaminus, Archbishop of Neapolis.

His Eminence Elias Melius, Archbishop of Acre and Zhibar, Chaldean Rite.

[*Latin ed. p. 25*]

SUBSIGNATIONS.

f Frederick De Furstenberg, Archbishop of Olomouc.

t Paul Brunoni, Archbishop of Tarona.

f Joseph Matar, Maronite Archbishop of Alep.

t Philip Cammarota, Archbishop of Gaeta.

t Francis Xavier Apuzzo, Archbishop of Sorrento.

f Cajetan Rossini, Archbishop, Bishop of Melpheten, Iovenace, and Terliti.

t Peter Villanova Castellacci, Archbishop of Petralia.

f Vincent Tizzani, Archbishop of Nisibis.

f Vincent Spaccapietra, Archbishop of Smyrna.

i Marian Ricciardi, Archbishop of Regina.

f Charles Pooten, Archbishop of Antibes and Scodra.

t Francis Emilius Cugini, Archbishop of Modena.

f James Bosagi, Armenian Archbishop of Caesarea.

f Raphael Ferrigno, Archbishop of Brindisi.

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f Salvatore Nobili Vitelleschi, Archbishop, Bishop of Auxima and Cingula.

t Alexander Franchi, Archbishop of Thessaloniki.

i Peter Bostani, Maronite Archbishop of Tyre and Sidon.

f Patrick Leahy, Archbishop of Kassel.

+ Joseph Hippolytus Guibert, Archbishop of Tours.

f Marin Marini, Archbishop, Bishop of Urbisvetana.

f George Claudius Chalandon, Archbishop of Aquila.

f Gregory Szymonowicz, Armenian Archbishop of Lviv.

f Joachim Limberti, Archbishop of Florence.

i Anthony Salomone, Archbishop of Salerno.

f Philip Gallo, Archbishop of Patras.

f Joseph S. Alemany, Archbishop of St. Francis of California.

f Francis Pedicini, Archbishop of Bari.

i Emanuel Garcia Gil, Archbishop of Zaragoza.

f Arsenius Avak-Vartan-Angiarakian, Armenian Archbishop of Tarsus.

f Julian Florian Desprez, Archbishop of Toulouse.

f Ignatius Akkani, Melkite Greek Archbishop of Hauran.

t Francis Xavier Wierzchleyski, Archbishop of Lviv (Latin Rite).

f Spiridion Maddalena, Archbishop of Corfu.

i Gregory Balitian, Armenian Archbishop of Aleppo.

f John Maria Odin, Archbishop of New Orleans.

f John Martin Spolding, Archbishop of Baltimore.

f Leo Korkpruni, Armenian Archbishop of Melitene.

f Charles De la Tour D Auvergne-Lauragais, Archbishop of Bourges.

f "John Hagg," Maronite Archbishop of Heliopolis.

i Miecislaus Ledochowski, Archbishop of Gnesen and Posen.

f Walter Steins, Archbishop, Bishop of Bosra, Apostolic Vicar of Calcutta.

Primus Calvus Lopez, Archbishop of St. James of Cuba.

i Benvenutus Monzón y Martin, Archbishop of Granada.

f Joseph Berardi, Archbishop of Nicaea.

t Peter Alexander Doimo Maupas, Archbishop of Ladra.

f Athanasius Raphael Giorchi, Archbishop of Babylon (Syrian Rite).

[*Latin ed. p. 26*]

SUBSIGNATIONS.

●f Georgius Darboy, Archbishop of Paris.

●f Antonius de Lavastida, Archbishop of Mexico.

●f Clemens Munguia, Archbishop of Mecoacan.

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●i Paulus Hatem, Archbishop of Aleppo, of the Greek Melchite rite.
●f Petrus Matah, Archbishop of Jazireh in Syria.
●f Ludovicus Anna Dubreil, Archbishop of Avignon.
●t Ioannes Ignatius Moreno, Archbishop of Vallisoletan.
●f Martialis Guillelmus Du Cosquer, Archbishop of Port-au-Prince.
●f Laurentius Pergeretti, Archbishop of Naxian.
●f Ludovicus Gonin, Archbishop of Port of Spain.
●f Melchior Nasarian, Archbishop of Marden, of the Armenian rite.
●f Darius Bucciarelli, Archbishop of Scopia.
●f Franciscus Fleix-y-Solans, Archbishop of Tarragona.
●+ Ludovicus Haynald, Archbishop of Kolozsvar and Bacs.
●I Basilius Michael Gasparian, Archbishop of Cyprus, of the Armenian rite.
●f Ioannes Paulus Franciscus Maria Lyonnet, Archbishop of Alba.
●f Henricus Eduardus Manning, Archbishop of Westminster.
●r Iosephus Sembratowiez, Archbishop of Nazianzus, of the Greek rite.
●r Paulus Melchers, Archbishop of Cologne.
●f Franciscus Xaverius de Merode, Archbishop of Malines.
●f Antonius Bossi Vaccari, Archbishop of Chieti.
●I Aloisius Ciurcia, Archbishop of Irenopolitan.
●I Alexander Riccardi, Archbishop of Turin.
●f Ioseph Renedictus Dusmet, Archbishop of Catania.
●i Iosephus Cardoni, Archbishop of Edessa.
●f Ioannes Baptista Landriot, Archbishop of Reims.
●f Carolus Martialis Allemand Lavigerie, Archbishop of Algiers.
●f Aloisius Puecher Passavalli, Archbishop of Iconium.
●i Aloisius Nazarri di Calabiana, Archbishop of Milan.
●f Ioannes Petrus Losanna, Bishop of Boulogne.
●f Ignatius Giustiniani, Bishop of Chios.
●f Raphael Sanctes Casanelli, Bishop of Adria.
●i Guillelmus Aretini Sillani, Bishop, formerly of Terracina.
●f Modestus Contratto, Bishop of Aquila.
●f Theodosius Kojumgi, Bishop of Sidon, Melchite rite.
●f Iosephus Maria Severa, Bishop of Interamna.
●f Fridericus Gabriel de Marguerye, Bishop of Augsburg.
●i Meletius Findi, Bishop of Heliopolis, of the Greek Melchite rite.
●t Franciscus Victor Rivel, Bishop of Divie.
●f Iulianus Meirieu, Bishop of Dinan.

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●r Ludovicus Besi, Bishop of Canosa.
●f Antonius Banza, Bishop of Piacenza.
●i Dionysius Gauthier, Bishop of Emmaus.
●f Georgius Antonius Stahl, Bishop of Herbipolis.
●f Andreas Raess, Bishop of Argentina.
●i Carolus Gigli, Bishop of Tivoli.
●f Franciscus Maria Vibert, Bishop of Mauritius.

[*Latin ed. p. 27*]

SUBSCRIPTIONS.
f Ioannes Fennelly, Bishop of Castorien.
f Stephanus Ludovicus Gharbonneaux, Bishop, Auxiliary.
f Petrus Paulus Lefevre, Bishop of Zelan. Administrator of Detroit.
f Ioannes Hilarius Boset, Bishop, Emeritus.
f Fridericus Manfredini, Bishop of Patavin.
f Nicolaus Grispigni, Bishop of Fulginate.
t Guillelmus Augebeault, Bishop of Andegaven.
f Iosephus Armandus Gignoux, Bishop of Bellovacen.
t ioannes Baptista Berteaud, Bishop of Tutelen.
t Eleonorus Aronne, Bishop of Montisalti.
t Caietanus Carli, Bishop of Almiren.
4- Ioannes Franciscus Wheland, Bishop of Aureliopolitanus.
f Ioannes Thomas Ghilardi, Bishop of Montis Regalis.
f Paulus Georgius Dupont des Loges, Bishop of Meten.
4- Petrus Severini, Bishop of Sappate.
t Petrus Iosephus De Preux, Bishop of Sedunen.
t Ioannes Donney, Bishop of Montisalbani.
4- Carolus Fridericus Roussalet, Bishop of Sagien.
t Iacobus Bailles, Bishop, formerly of Luconen.
t Ioannes Williams, Bishop of Bostonien.
f Caietanus Cadetti, Bishop of Realin.
f Ioannes Brady, Bishop of Perten.
j- Felix Cantimorri, Bishop of Parmen.
f Petrus Paulus Trucchi, Bishop of Forolivien.
f Stephanus Marilley, Bishop of Lausanen and Geneven.
f Guillelmus Massaja, Bishop of Cassien.
f Guillelmus Bernardus Ullathorne, Bishop of Birminghamen.
f Alexius Canoz, Bishop of Tamassen.
f Henricus Bossi, Bishop of Casertan.

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f Ioannes Baptista Pellei, Bishop of Aquaependen.
•f Franciscus Mazzuoli, Bishop of S. Severini.
i Flavianus Abel Hugonin, Bishop of Bajocen.
i Philippus Mincione, Bishop of Mileten.
•f Amadeus Rappe, Bishop of Clevelanden.
f Ioannes Corti, Bishop of Mantuanus.
f Aloisius Ricci, Bishop of Signin.
f Iacobus Alipius Goold, Bishop of Melbournen.
i Eugenius Bruno Guiques, Bishop of Outovien.
•} Guillelmus De Cany, Bishop of Cargianen.
i Paulus Dodmassei, Bishop of Alexien.
i Kamillus Bisleli, Bishop of Cornetanus and Centumcellar.
i Thomas Mullok, Bishop of S. Ioannis Terrae Novae.
f Maria lulianus, Bishop of Diniensis.
f Franciscus Gandolfi, Bishop of Antipatren.
f Ioannes Antonius Balma, Bishop of Ptolemaid.
f Aloisius Kobes, Bishop of Methonen.
f Laurentius Guillelmus Renaldi, Bishop of Pinerollen.

[*Latin ed. p. 28*]

SUBSCRIPTIONS.
f John Mary Foulchier, Bishop of Mimat.
t Rudesind, Bishop of Port Victoria in Australia.
t Anthony Boscarini, Bishop of St. Angel in Vado and Urbania.
f John Acciardi, Bishop of Anglone and Tursia.
f Anthony de Stephen, Bishop of Benden.
f William Keance, Bishop of Cloyne.
f Anthony Felix Philibert Dupanloup, Bishop of Aurelian.
f Louis Francis Pie, Bishop of Poitiers.
f Livius Parlatore, Bishop of St. Mark.
t Ignatius Mary Silletti, Bishop of Melphi and Rapolano.
f Peter Simon Dreux Brèzè, Bishop of Moulins.
t John Ranolder, Bishop of Vesprim.
t Francis Petagna, Bishop of Castri Maris.
f Peter Cyril d'Uriz y da Labairù, Bishop of Pamplona and Tudela.
f Raphael Bachettoni, Bishop of Nursia.
f George Strossmayer, Bishop of Bosnia and Syrmia.
f Alexander Taché, Bishop of St. Boniface.
i John Mac-Gill, Bishop of Richmond.

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f Jerome Verzeri, Bishop of Brixia.

t Peter Lacarriera, formerly Bishop of Bassae Terrae.

t Louis Theophilus Pallu du Parc, Bishop of Biesen.

f Philip Fratellini, Bishop of Forosempronia.

j Aloisius Margaret, Bishop of Oritan.

f John Sarrebayrouze, Bishop of Hetaunia.

f Joseph Arachial, Bishop of Ancyra, Armenian rite.

t Thomas Grant, Bishop of Southwark.

t Vincent Bisceglia, Bishop of Termoli.

i Mathias Augustine Mengacci, Bishop of Civitas Castellana, Hortan, and Gallesina.

f John Peter Mabile, Bishop of Versailles.

f Caietan Brinciotti, Bishop of Balneoregina.

f Colin Mak Kinnon, Bishop of Arichat.

f Bernard Pinol, Bishop of Nicaragua.

f Louis Eugene Regnault, Bishop of Carnut.

f John James Guerrin, Bishop of Lingon.

f Aloisius Sordo, Bishop of Thelesin, or Cerretan.

f Bartholomew D'Avanzo, Bishop of Calven and Theane.

f John Joseph Longobardi, Bishop of Andria.

i John Peter Bravard, Bishop of Constantia.

t Theodore de Montpellier, Bishop of Leodium.

f Anthony La Scala, Bishop of St. Sever.

i Jesus Vitali, Bishop of Ferentin.

f Charles Mary Dubuis, Bishop of Galveston.

i James Stepischnegg, Bishop of Lavant.

+ Aloisius Filippi, Bishop of Aquila.

i James Ginoulhial, Bishop of Gratianopolitan.

f Joseph Chaxail-y-Estrade, Bishop of Urgella.

f Francis Joseph Rudiger, Bishop of Linci.

[*Latin ed. p. 29*]

SUBSCRIPTIONS.

f Ioannes Loughlin, Bishop of Brooklyn.

f Taddeus Amat, Bishop of Montereggio.

t Iacobus Booswell Bayley, Bishop of Novara.

t Ludovicus Goesbriand, Bishop of Burlington.

f Emigdius Forchini, Bishop of Città della Pieve.

t Vincentius Materozzi, Bishop of Buben and Butunlin.

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t Petrus Aloisius Speranza, Bishop of Bergamo.
t Thomas Michael Salzano, Bishop of Tanaro.
f Felix Romano, Bishop of Iscla.
t Aloisius Landi Vittori, Bishop of Assisi.
t Vincentius Zubranich, Bishop of Ragusa.
f Benedictus Liiccabona, Bishop of Trent.
f Ludovicus Forwerk, Bishop of Leontopoli.
t Franciscus Antonius Maiorsini, Bishop of Laquedonia.
f Innocentius Sannibale, Bishop of Eugubio.
t Nicolaus Renatus Sergent, Bishop of Corosope.
f Ioannes Rosati, Bishop of Tuder.
t Dominicus Zelo, Bishop of Aversa.
t Caietanus Rodilossi, Bishop of Alatri.
t Franciscus Gallo, Bishop of Avellino.
t Petrus Rota, Bishop of Guastalla.
f Ioannes Iosephus Vitezich, Bishop of Veglia.
t Franciscus Gianpaolo, Bishop of Larino.
f Franciscus Roullet de La Bouillerie, Bishop of Carcassonne.
f Franciscus Paulus, Bishop of St. Agatha of the Goths.
f Alexius Ioseph Wicart, Bishop of Vallis Vidonis.
t Guillelmus Vaughan, Bishop of Plymouth.
f Nicolaus Pace, Bishop of Ameria.
f Ioannes Benini, Bishop of Pisa.
t Iosephus Del Prete, Bishop of Thyatira.
t Iosephus Formisano, Bishop of Nola.
f Claudius Henricus Plantier, Bishop of Nemausa.
f Ludovicus Augustus Detalle, Bishop of Ruthenia.
f Vincentius Moretti, Bishop of Imola.
f Antonius Iosephus Iordanus, Bishop of Foroiul and Tolone.
t Ioannes Renier, Bishop of Feltre and Belluno.
f Patritius Moran, Bishop of Dardanus.
t Laurentius Gilooly, Bishop of Elphin.
f Guillelmus Emmanuel, Bishop of Mainz.
f Ioannes Parrei, Bishop of Hamilton.
f Elias Ant. Alberani, Bishop of Ascoli in Piceno.
t Ioannes Ghiureghian, Bishop of Trapezus (Armenian Rite).
f Adrianus Languillat, Bishop of Sergiopolis.
t Stephanus Semeria, Bishop of Olympus.

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f Iacobus Bernardi, Bishop of Massa.
f Thomas Passero, Bishop of Troia.
f Claudius Iacobus Boudinet, Bishop of Ambianes.

[*Latin ed. p. 30*]

SUBSIGNATIONES.
Most Reverend Conrad Martin, Bishop of Paterbonen.
Most Reverend Joseph Emanuel Arroyo, Bishop of Guayana.
Most Reverend Joseph Romero, Bishop of Dibonen.
Most Reverend Vincent of Cina, Bishop of Adramiten.
Most Reverend Henry, Bishop of Casertanus.
Most Reverend Dalmatius Di Andrea, Bishop of Boven.
Most Reverend Vincent Gasser, Bishop of Brixinen.
Most Reverend Philip Vespasiani, Bishop of Fanen.
Most Reverend Clemens Fares, Bishop of Pisauren.
Most Reverend Francis Marinelli, Bishop of Porphyrien.
Most Reverend Henry Iunker, Bishop of Altonen.
Most Reverend John Mac-Evilly, Bishop of Galvien.
Most Reverend William Clifford, Bishop of Cliftonien.
Most Reverend Peter Geraud De Langalerie, Bishop of Bellicen.
Most Reverend Peter Marifu-Ferrè, Bishop of Casalen.
Most Reverend Louis Delcusy, Bishop of Vivarien.
Most Reverend Peter Buffetti, Bishop of Brictinorien.
Most Reverend Joseph Stephen Godelle, Bishop of Thermopylen.
Most Reverend James Frederick Wood, Bishop of Philadelphien.
Most Reverend John Baptist Scandella, Bishop of Antinoen.
Most Reverend Joseph Targioni, Bishop of Volaterran.
Most Reverend Aloysius Maria Paoletti, Bishop of Montis Politiam.
Most Reverend Joseph De Los Rios, Bishop of Lucen.
Most Reverend Michael O'Hea, Bishop of Rossanen.
Most Reverend Patrick Lynch, Bishop of Carolopolitan.
Most Reverend Joseph Maria Papardo, Bishop of Sinop.
Most Reverend Vitalis Justin Grandin, Bishop of Satalen.
Most Reverend William Henry Eider, Bishop of Natchezensis.
Most Reverend Clemens Pagliari, Bishop of Anagnin.
Most Reverend Fortunatus Maurizi, Bishop of Verulan.
Most Reverend Peter Sola, Bishop of Nicien.
Most Reverend Ferdinand Blanco, Bishop of Abulen.
Most Reverend Paul Benignus Carrion, Bishop of Porto Rico.

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Most Reverend James Jeancard, Bishop of Ceramen.

Most Reverend Charles John Filion, Bishop of Cenomanen.

Most Reverend John Sebastian Devoucoux, Bishop of Ebroicen.

Most Reverend Ignatius Senestrey, Bishop of Ratisbonen.

Most Reverend Richard Roskell, Bishop of Nottinhgamen.

Most Reverend Paschal Vuicic, Bishop of Antiphellen.

Most Reverend Louis Idèo, Bishop of Liparen.

Most Reverend Michael Paya y Rico, Bishop of Conchen.

Most Reverend James Etheridge, Bishop of Toronen.

Most Reverend Peter Cubero y Lopez de Padilla, Bishop of Oriolen.

Most Reverend Dominic Fanelli, Bishop of Dianen.

Most Reverend Joachim Lluch, Bishop of Canarien, and of St. Christopher in Lagui.

Most Reverend Ignatius Papardo, Bishop of Mynden.

Most Reverend John Anthony Augustus, Bishop of Apamien.

[*Latin ed. p. 31*]

SUBSIGNATIONS.

31. Petrus Tilkian, Bishop of Brüssel. (Armenian Rite)

32. Antonius Maria Valenziani, Bishop of Fabriano and Matelica.

33. Hyacinthus Luzi, Bishop of Narni.

34. Thomas Grace, Bishop of St. Paul of Minnesota.

35. Antonius Halagi, Bishop of Artuin. (Armenian Rite)

36. Iosephus Teta, Bishop of Oppido.

37. Ioannes Baptista Siciliani, Bishop of Capulaquen and Vallen.

38. Franciscus Xaverius D'Ambrosio, Bishop of Mura.

39. Michael Milella, Bishop of Aprutino.

40. Rodesindus Salvado, Bishop of Victoria.

41. Simon Spilotros, Bishop of Tricarico.

42. Felix Petrus Fruchaud, Bishop of Limoges.

43. Aloisius Maria Epivemt, Bishop of Atura.

44. Ioseph Lopez-Crespo, Bishop of Santander.

45. Vincentius Arbelaez, Bishop of Maximiliano.

46. Ioannes Quinlan, Bishop of Mobile.

47. Petrus Ioseph Tordoya, Bishop of Tiberiopolis.

48. Ioannes Monetti, Bishop of Cervia.

49. Aloisius Riccio, Bishop of Calata.

50. Alexander Paulus Spoglia, Bishop of Comaclo.

51. Aloisius Mariotti, Bishop of Feretran.

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52. Valerius Laspro, Bishop of Gallipoli.
53. Aloisius Lembo, Bishop of Cotrone.
54. Iacobus Rogers, Bishop of Chatam.
55. Patritius Dorrion, Bishop of Dan and Connor.
56. Andreas Ignatius Schaepman, Bishop of Esbon.
57. Alexander Bonnaz, Bishop of Csanad.
58. Sebastianus Dias Larangeira, Bishop of St. Peter of Fluminense.
59. Michael Domenec, Bishop of Pittsburgh.
60. Aloisius Antonius Dos Santos, Bishop of Fortaleza.
61. Antonius de Macedo Costa, Bishop of Belem of Para.
62. Walterus Steins, Bishop of Nilipoli.
63. Claudius Maria Magnili, Bishop of Annecy.
64. Iulius Ravinet, Bishop of Treca.
65. Antonius de Trinitate de Vasconcellos Pereira de Mello, Bishop of Latna.
66. Iacobus Donnelly, Bishop of Clogher.
67. Gerardus Petrus Wilmer, Bishop of Harlem.
68. Georgius Buttler, Bishop of Limerick.
69. Carolus Theodorus Colet, Bishop of Lucon.
70. Eustachius Zanoli, Bishop of Eleutheropolis.
71. Fridericus Maria Zinelli, Bishop of Tarvisio.
72. Aloisius De Canossa, Bishop of Verona.
73. Robertus Cornthwaite, Bishop of Beverley.
74. Benedictus Vilamitiana, Bishop of Derthusa.
75. Petrus Maria Lagüera y Menezo, Bishop of Ocaña.
76. Callistus Castrillo y Ornedo, Bishop of Legione.
77. Silvester Horton Rosecrans, Bishop of Pompeiopolis.

[*Latin ed. p. 32*]

SUBSIGNATIONS.

Most Reverend Victor Felix Bernardon, Bishop of Vapincen.
Most Reverend Augustine David, Bishop of Briocen.
Most Reverend Lewis Nogret, Bishop of St. Claudius.
Most Reverend Anthony Boutonnet, Bishop of Guadalupe.
Most Reverend Pantaleo Monserrat y Navarro, Bishop of Bareinon.
Most Reverend Joseph Fessier, Bishop of St. Hippolytus.
Most Reverend Marianus Puigllat-y-Amigo, Bishop of Illerden.
Most Reverend Constantine Bonet, Bishop of Gerunda.
Most Reverend John de Franca Castro e Moura, Bishop of Portugalien.

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Most Reverend John Gray, Bishop of Hypsopolis.

Most Reverend Bernardinus Trionfetti, Bishop of Terracina, Priverna, and Setin.

Most Reverend Francis Gainza, Bishop of Caceres.

Most Reverend Anthony Alves Martins, Bishop of Viseu.

Most Reverend Joseph Papp-Szilägyi de Ulesfalva, Bishop of Magno Varadinen.

Greek Rite: Most Reverend Gioannichius, Bishop of Palmira.

Greek-Catholic: Most Reverend John Jacovacci, Bishop of Erythrea.

Most Reverend John Baptista Greith, Bishop of St. Gall.

Most Reverend Nicholas Conaty, Bishop of Kilmore.

Most Reverend Nicholas Adames, Bishop of Halicarnassus.

Most Reverend Fidelis Abbati, Bishop of Sanctorin.

Most Reverend John Baptista Gazailhan, formerly Bishop of Venetia.

Most Reverend Anthony Monastyrski, Bishop of Premislia.

Most Reverend John Zaffron, Bishop of Sebenica.

Most Reverend Joseph Nicholas Dabert, Bishop of Petrocoria.

Most Reverend Peter Marcus Le Breton, Bishop of Anicia.

Most Reverend John Claudius Lachat, Bishop of Basel.

Most Reverend Joseph Pluym, Bishop of Nicopolis.

Most Reverend Felix Maria Arriete, Bishop of Gatita and Septen.

Most Reverend Francis Andreoli, Bishop of Gallia and Perugia.

Most Reverend Paul Micaleff, Bishop of Civitas Castelli.

Most Reverend Anthony Maria Pettinari, Bishop of Nuceria.

Most Reverend John Peter Dours, Bishop of Suessiones.

Most Reverend Gregory Lopez, Bishop of Placentia and Compostela.

Most Reverend Joseph Aloysius Montagut, Bishop of Ovada.

Most Reverend Joachim Hernández y Herrero, Bishop of Segobriga.

Most Reverend Paul Beriscia, Bishop of Pulati.

Most Reverend John Strain, Bishop of Avila.

Most Reverend Edmund Francis Guierry, Bishop of Danaba.

Most Reverend Hyacinthus Vera, Bishop of Megara.

Most Reverend Gaspar Mermillod, Bishop of Hebron.

Most Reverend Angelus Kraljevic, Bishop of Metelopolis.

Most Reverend Agapitus Dumani, Bishop of Ptolemais, Greek Rite, Melchite.

Most Reverend Thomas Nutly, Bishop of Meath.

Most Reverend Joseph Salandari, Bishop of Marcopolia.

Most Reverend Francis Nicholas Guellette, Bishop of Valentia.

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Most Reverend William Renetus Meignan, Bishop of Catalana.
Most Reverend Stephen Ramadié, Bishop of Ein.

[*Latin ed. p. 33*]

SUBSCRIPTIONS.
Raymond Garcia y Anton, Bishop of Tuden.
Hyacinthus Maria Martínez, Bishop of St. Christopher of Havana.
Henricus Franciscus Bracq, Bishop of Gandaven.
Nicolaus Power, Bishop of Sarepta.
Laurentius Bonaventura Schiel, Bishop of Adelaidepolis.
Ferdinandus Ramírez y Vázquez, Bishop of Pacen.
Victor Augustus Dechamps, Bishop of Namurcen.
Ioannes Ioseph Conroy, Bishop of Albanen, in America.
Ioannes Marangò, Bishop of Thinen and Miconen.
Raphael Popow, Bishop of Bulgaror.
Nicolaus Frangipani, elected Bishop of Concordien.
Petrus Georgius di Natale, Chaldean Bishop of Amiden.
Ioannes Lozano, Bishop of Palentin.
Antonius Jordà y Soler, Bishop of Vicen.
Agabius Biscia, Bishop of Cariopolis.
Stephanus Melchisedechian, Armenian Bishop of Erzerum.
Carolus Philippus Place, Bishop of Marsilia.
Ioannes Baptista Lequette, Bishop of Atrebates.
Petrus Alfredus Grimardias, Bishop of Caduce.
Ioannes Maria Bécel, Bishop of Venetus.
Georgius Dubocowich, Bishop of Pharen.
Iacobus Lyngh, Bishop of Arcadiopolis.
Ioseph De la Cuesta y Maroto, Bishop of Auria.
Iacobus Chedwick, Bishop of Hagulstaden and Novo-Castren.
Angelus Di Pietro, Bishop of Nyssa.
Ioseph Aggarbati, Bishop of Senogallia.
Ioseph Bovieri, Bishop of Montis Faliscis.
Iulius Lenti, Bishop of Sutri and Nepes.
Thomas Gallucci, Bishop of Recineten and Laureta.
Ioannes Baptista Cerruti, Bishop of Savona and Naul.
Salvator Angelus Demartis, Bishop of Galtellinen, Norway.
Philippus Manetti, Bishop of Tripolis.
Conceptus Focaccetti, Bishop of Lystra.
Anselmus Faùli, Bishop of Grosseto.

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Ioseph Rosati, Bishop of Lünen-Sarzana.
Iosephus Giusti, Bishop of Arezzo.
Carolus Macchi, Bishop of Begien.
Ioannes Zalka, Bishop of Lauria.
Caietanus Franceschini, Bishop of Macerata and Tolentino.
Antonium Fania, Bishop of Marsic and Potentia.
Andreas Formica, Bishop of Cuneo.
Carolus Savio, Bishop of Ästen.
Laurentius Gastaldi, Bishop of Saluzzo.
Eugenius Galletti, Bishop of Alba-Pompeii.
Antonius Colli, Bishop of Alexandrin, Piedmont.
Augustinus Hacquard, Bishop of Verdun.
Ioseph Alphredus Faulon, Bishop of Nancy and Toul.
Acts, Volume III, Section XXV.

[*Latin ed. p. 34*]

34. SIGNED: Henry Bindi, Bishop of Pistoia; Anthony Green, Bishop of Calydon; Francis Zunnui, Bishop of Uxellen and Terralben; Leo, Bishop of Rjipellensis and Santonensis; Francis Gros, Bishop of Tarantasiensis; John Chrysostom Kruesz, Archabbot of the Order of Saint Benedict of Saint Martin; William de Cesare, Abbot of Montis Virginis.

RESPONSE OF THE HOLY FATHER. Venerable Brothers. "It was indeed pleasing, although entirely expected from your faith and devotion, that this concord, whereby you, though separated and divided, maintained and affirmed the same things that We had taught; and that you condemned those very errors which We had condemned, and which have been brought forth to the ruin of religious and civil society.

"But it was much more pleasing to Us to learn this from your own mouths, and now again to receive it more fully and solemnly from you assembled; while, through the offices of love and obedience, We are made aware of the sentiments and affections of your minds, more clearly than words themselves could express.

"For what reason did you so readily respond to Our desire, and, setting aside all inconvenience, travel to Us from every part of the world? Surely, you had discovered the firmness of the Rock upon which the Church is built, and you had perceived its life-giving power; nor did you fail to see how glorious a testimony to both is added by the canonization of Christian heroes.

"Therefore, you have come together to celebrate this feast, not only to add splendor to these sacred solemnities; but also, as representatives of the entire family of the faithful, to demonstrate, by your presence as much as by your expressed profession, that the same faith is now flourishing, that

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the same bond of charity unites all, and that the same virtue is drawn from this Chair of Truth.

"We commend to you Our pastoral solicitude, and whatever We do, according to Our abilities, to spread the light of truth, to..."

[*Latin ed. p. 35*]

RESPONSE OF THE HOLY FATHER. Having dispelled the darkness of errors, in order to drive away the ruin from the souls redeemed by the blood of Christ; namely, so that, according to the sentiments and voices of the most eminent teachers, the Christian people may be strengthened; and so that, in obedience to that love for this Holy See, they may direct their minds more intently towards it. Having received assistance from all sides, you have come together here to support our civil authority, which has been so grievously attacked by perfidy; therefore, so that, through this most splendid deed, and through the suffrage of the Catholic world which you have conferred, you may assert the necessity of a free ecclesiastical government. You have rightly commended the beloved Roman people, and the clear and undoubted signs of their obedience and love towards us, and you have deserved the highest praise; and to this, you have added greater zeal, and you have defended them from the slanders of those who, under the pretext of the people's happiness, seek to depose the Roman Pontiff from his throne. And while you have bound together, with the bonds of the closest charity, all the churches of the world through this assembly, you have also accomplished this, so that, with a more abundant evangelical spirit, you may strengthen the ashes of the most blessed Prince of the Apostles, Peter, and of the Doctor of the Gentiles, Paul, to fortify the ranks of those who fight, to defend the rights of religion, and to more effectively instill faith in the people. But this very thing is more openly revealed in the common desire of this ecumenical council, which you consider not only useful, but also necessary. For human pride, having revived the ancient audacity, strives to erect a city and a tower, the summit of which reaches to heaven, from which God himself might be overthrown. But it seems that He is watching the work, and will so confuse the tongues of the builders that no one will hear the voice of his neighbor: for this is what they attribute to the afflictions of the Church, to the pitiable condition of civil society, to the disturbance of all things in which we are immersed. To this very grave calamity, certainly, only the divine power of the Church can offer a remedy, which is most clearly manifested when bishops, convened by the Supreme Pontiff, assemble under His presidency, in the name of the Lord, to deliberate on the affairs of the Church. And we are entirely pleased that you have anticipated the purpose which We have long conceived, of commending this sacred assembly to the patronage of that very group, to whose feet the head of the serpent was subjected from the beginning, and

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to all those...

[*Latin ed. p. 36*]

36. RESPONSE OF THE HOLY FATHER. All heresies are extinguished by her alone. Therefore, having satisfied the common desire, we now announce that the Council, whenever it shall be held, will be established under the protection of the Immaculate Virgin, free from all stain, and will be opened on the day on which the memory of this distinguished privilege granted to her is celebrated. May God, may the Immaculate Virgin, grant that we may be able to reap the greatest and most salutary fruits from this council. In the meantime, may She, through her most powerful intercession, grant us the necessary help in our present needs, and may God, having been invoked through her prayers, pour forth His mercy upon us and upon the entire Church. We, certainly with the most beloved and grateful sentiments, implore you from the depths of our heart, that you may obtain from God whatever may be beneficial to your spiritual advancement, whatever may contribute to the progress of your flocks entrusted to you, whatever may be for the protection of religion and justice, and whatever may be for the tranquility of civil society. And since some of you, compelled by the particular needs of your people, will soon have to depart from us, to those, if the urgency of time does not allow us to embrace them individually, we offer our blessings in anticipation, and with heartfelt affection, we pray for them. To all, wishing you the abundance of all good things and the rich help of divine grace, and as a witness of our special benevolence and gratitude, we impart, from the depths of our heart, the Apostolic Blessing.

[*Latin ed. p. 37*]

37 FROM S, CONGREGATION OF THE COUNCIL. OBSTACLES TO MARRIAGE. December 22, 1866. Session: 24, Canon 1, regarding Matrimonial Impediments. A summary is presented: Livius began to love the girl Caia from his early adolescence, and for five years cultivated a relationship of love with her. When Livius's father was offended by such a marriage, the couple secretly planned, as they claim, to contract marriage; however, this plan was thwarted by the vigilance of the same father. Livius, who was seventeen years old, betrothed Caia, who was nineteen years old, and recorded the following: "I, Livius, below-named, knowing the excellent qualities of Caia, and having cultivated a relationship of love with her for five years past, in conscience and with free will, I promise and obligate myself to contract marriage with her in the sight of the Church and according to the dictates of reason, without any exception. And I believe that this is necessary both to restore Caia's honor in every way, and to satisfy her reciprocal desires properly, and to compensate for other lost opportunities for marriage due to my fault; thus, etc." This written obligation was signed by Livius in the presence of two witnesses as follows: "I, Livius N., personally

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obligate myself to fully fulfill the above, etc." Livius N. confirms as above. Caia, in turn, accepted this obligation with the following words: "Caia N. accepted." At this time, in the year 1857, Caia was pregnant, although, it seems, her parents were unaware of this. Upon learning of the girl's pregnancy, her father brought a complaint against Livius. However, the case, which was brought before a secular judge on the grounds of seduction, was not resolved due to political changes. But when, in the year 1863, it became known to the father of Caia that Livius was preparing to contract marriage with another woman, the same father appeared before the episcopal court, alleging an impediment to the marriage.

[*Latin ed. p. 38*]

38. OBSTACLES TO THE MARRIAGE. Livius, in order to obtain the marriage, presented a petition to the court, requesting that the letters attesting to his unmarried status not be presented to Livius. These prayers being rejected by the court, Livius waited almost three years before seeking the removal of the obstacle. During this time, Livius repeatedly made suppliant prayers to the Congregation of the Council, urging them to remove the obstacle presented in the court, especially because a valid faith could not create an obligation of marriage if there was no mutual obligation for Caius to marry him. After hearing the opinion of the Ordinary and observing the proper procedures, the case was brought before deliberation, although the procedural acts concerning the alleged rape, which had been conducted before a secular judge, were absent. A summary of the arguments. WHAT LIVIUS PRESENTED IN HIS FAVOR. – Livius maintained a single argument to demonstrate his freedom: he contended that there was no valid contract of marriage in his case, due to the absence of a reciprocal promise; he admitted that he had promised marriage to Caius, with the understanding that any exception to this promise would be removed; but he maintained that Caius had not promised anything in return, but had merely accepted the promise: he argued that it is possible for one person to accept the obligation of another, while still reserving the right to remain free; that a simple promise and acceptance do not constitute a contract of marriage; and therefore, there was no marriage in his case. He confirmed this with several authorities. Caius, on the other hand, claimed that such a simple acceptance could not be equated to a renewed promise, because she had been subjected to rape by Livius, and therefore was bound by the faith of marriage. For, besides the fact that such an argument only provides a certain presumption, it is easily to be disregarded in the present case: for the promise of marriage made by her did not precede the rape, but followed it. Therefore, she could not be accused of a renewed promise because of the rape she had suffered. Furthermore, in order to confirm this argument, she undermined the value of her own promise: she claimed that, in her youthful age, she had been easily deceived by Caius's brother;

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and, unaware of the existence of the pregnancy, she had been coerced into promising marriage: and therefore, she was less bound by it.

[*Latin ed. p. 39*]

OBSTACLES TO THE SACRAMENT OF MATRIMONY. 39. It is considered that, through that promise, with the dissent of the parents, there is sufficient cause to annul the betrothal, even if valid betrothal had already been entered into; and this was confirmed by authorities. THOSE THINGS WHICH, BY THEIR VERY NATURE, FAVORED THE CAUSE. It was observed that the promise of the future marriage, on the part of Livius, was of such a nature that it could not be desired more: for, besides the love cultivated for five years, besides Livius's constant visits to Caia's house, and the persevering familiarity, besides the intention of marriage already brought almost to the act of marriage in the present, there was a clear promise made before two witnesses, which should remove any exception whatsoever. Conversely, when Caia accepted such a promise, and when, a few days before, she met with Livius so that they might appear before the Parish Priest to contract marriage, the reaffirmation of the marriage by the woman, through that acceptance, seemed sufficiently determined: for from this circumstance alone, it did not appear to be a simple acceptance, as if she wished to obligate Livius, but rather to seek her own freedom. To this was added Caia's loss of virginity; although Livius denied that he was the author of the rape, yet, besides other things that concurred in the matter, there were very serious indications, and it could easily be shown that he himself was the author, if the procedural acts concerning the rape, which were before his eyes, had been considered; Livius, however, denied this, not without contradiction: for in the very document of the promise, he had affirmed that he had contracted marriage with Caia in order to restore Caia's honor in every way. Nor did that exception made by Livius seem to be of great importance, namely, that the rape had preceded the promise, and therefore that it could not be considered in place of the promise: for, if the procedural acts concerning the rape, which were before a lay judge, had been considered, and which Caia's father affirmed, not only would the five years of love, and Livius's persuasion concerning Caia's honor, be considered; but also the repeated promises, whether written or verbal, given to take her as his wife, either before or after the loss of virginity. Therefore, since a girl is not considered to suffer the loss of virginity except from her betrothed, with the hope of a future marriage, as the Authors say,

[*Latin ed. p. 40*]

40. OBSTACLES TO MATRIMONY. It did not seem necessary to discuss the legitimate presumption in favor of the validity of betrothals. However, even if this hypothesis were accepted, given the present state of the case due to the defects in the procedural actions, it could not be conclusively

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demonstrated that Livius could be declared free; for his promise, after the disgraceful act, was not simple, but qualified, that is, made because of a prior cause and in relation to that same cause. Therefore, Livius's obligation to marry Caia, if not precisely derived from the contract of betrothal, was said to arise from that very qualified promise itself: Sánchez in Lip. i, disp. 5, n. 12, which Reiffenst. calls a common opinion in Lib. 4, Decret., tit. 1, de Spons., § k, n. 17, and others. With both sides having argued these points, the purpose is to resolve the doubt: "Whether and in what way is there room for the removal of the impediment to marriage in this case?"

RESOLUTION. – The Sacred Congregation of the Council, having knowledge of the cause on December 22, 1866, judged it prudent to respond: negatively.

FROM THIS, THE FOLLOWING MAY BE GATHERED:

I. The perfect nature of betrothal consists in a deliberate and reciprocal promise of future marriage between those who are capable of contracting it.

II. A promise on one side, and a simple acceptance of that promise on the other, do not constitute a perfect contract of betrothal, which requires the obligation of both parties.

III. However, the acceptance of a promise can be equivalent to an explicit reciprocal promise, if the other circumstances present require that the acceptance be understood in that way.

IV. A promise of marriage made by one party alone, for the purpose of compensating damages, although it does not constitute a contract of betrothal, nevertheless obliges the promisor to fulfill what he has promised (1).

(1) Recall what we have explained in another case of this kind, Fol. I, p. 348.

[*Latin ed. p. 41*]

OBSTACLES TO MARRIAGE. 41. In the present case, setting aside the question of whether perfect marriage existed, it has been clearly established that Livius made a promise to Caia for the purpose of compensating for damages; therefore, the impediment raised before the tribunal, preventing Livius from being granted letters attesting to his freedom from marriage, should not be removed. RIGHT OF REMOVAL OF THE BODY. June 10, 1865, and December 22, 1866. Session 25, chapter 13, concerning reforms. Regarding a matter of fact. Carolus, who resided in Romae, departed for the city of N. for the purpose of alleviating his health. In this city, in the parish of St. Juvenalis where he resided, after a space of eight days, he was seized by an apoplectic illness and died, and his body was buried in the cathedral church, with the body being brought there by the parish priest

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of St. Juvenalis. It is customary in that city of N., with the support of a synodal constitution, that the bodies of travelers, sojourners, or those who are temporarily present in the city, be buried in the cathedral church, even if that cathedral is not the parish church. However, a few days later, news began to spread that Carolus's body should be transferred to Romae, so that it might be interred in the tomb which he and his family had prepared for themselves. Therefore, a doubt arose among three parties as to who of them had the right to remove the body to Romae for burial in the tomb: namely, the Chapter, which claimed that this right belonged to it; also, the parish priest within whose parish the Chapter is located, namely, the parish priest of St. Donatus; and finally, the parish priest of St. Juvenalis, in whose parish Carolus died. Such a question was presented to the Sacred Congregation through petitions or, as we now say, through summary requests, and on June 10, 1865, the Sacred Congregation responded: "Let a more complete investigation be made."

[*Latin ed. p. 42*]

42. OF THE RIGHT TO ASSOCIATE A CORPSE. According to the decree of the Holy Congregation, the following information was obtained: 1° Whether the corpse remained deposited in the cathedral church; 2° Whether the deceased had a tomb in Rome; 3° Whether, finally, there was any indication from the deceased of a will, in which he designated a place for his burial, or at least whether there was a declaration from the relatives, which only provided for a provisional burial in the cathedral church. From the information obtained, the following was determined: 1° That the deceased was buried in the cathedral church, without any agreement having been made, whether as a temporary deposit or as a permanent burial; 2° That the deceased had designated a tomb for himself and his wife in Rome; 3° That the same deceased, while residing in Rome, had repeatedly expressed his desire to be buried in the designated tomb; 4° That in that diocese, while there was indeed a public cemetery, there was no law mandating that all corpses be buried in the public cemetery, but that they could be buried in church crypts, if they were enclosed in two boxes, namely a wooden one and a lead one.

DISCUSSION ON THE QUESTION. WHAT WAS OBSERVED IN FAVOR OF THE CHAPTER. – Although today we use this right, so that each one may regularly receive funerals in the parish church, and that, in the absence of a public cemetery, or of a designated burial place, he may be buried there; nevertheless, it was noted that the cathedral church is to be considered, according to the holy canons, as a parish church for the entire city and district, especially with regard to the funerals of pilgrims and strangers. Passerin, *De hom. statu et off.*, t. 2, q. 87, n. 314; Barbosa, *De offic. Paroch.*, par. 3, cap. 26, n. 35, where he teaches: "A pilgrim, if he dies while on the road, is usually buried in the cathedral, as the Holy Con-

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gregation of Cardinals, Bishops, and Regulars decided, on June 6, 1592." And Cardinal Petra, in his commentary on Constitution 9 of Innocent III, n. 5, t. 2, relates a previous resolution of the Holy Congregation of Bishops and Regulars, of July 5, 1591, and, considering the conflicting opinions of different authors, pointed out that custom should be observed in this matter. Indeed, the bringing of the corpse for burial was considered to be a continuation and fulfillment of the funeral rites.

[*Latin ed. p. 43*]

RIGHT OF ASSOCIATING A CORPSE*. 43 Thus, he who has the right to perform the funeral rites, should also have the right to associate the corpse, wherever the burial is granted. Therefore, the chapter which previously held the right to bury strangers, seemed to have the right to associate the corpse until its own burial place. THESE OBSERVATIONS WERE MADE IN FAVOR OF THE PARISH PRIEST OF ST. DONATUS: The parish priest of St. Donatus, within whose boundaries the cathedral church was located, observed that the right to associate the corpse belonged to that parish priest, within whose parish boundaries the aforementioned corpse was found to be buried, namely, within the parish of St. Donatus; and therefore, that association belonged to him. He demonstrated this with two examples: one, of a body which had been buried in a church belonging to the Regular Canons within his parish, and which was subsequently to be transferred to Rome; and the other, of the body of a certain Canon who had died in the cathedral itself, which the same parish priest, with funeral honors, had associated from the buildings of the cathedral itself, up to the doors of the same cathedral, even though the same Canon had resided in another parish. THESE OBSERVATIONS WERE MADE IN FAVOR OF THE PARISH PRIEST OF ST. JUVENAL: In the first place, this parish priest contended that the deceased, Charles, had been hidden in the cathedral church, a place of sorts for depositing the dead; and he argued this especially because, otherwise, it would undoubtedly have been taken to the public cemetery. However, the argument that, whenever a corpse is delivered to a church as a place of deposit, it should be returned to the one who deposited it, is found in Chapter 1 on burials, in section 6, and was considered in a certain document from Brictorian, May 31, 1766, §. Many. Furthermore, the association of a corpse until the place of burial is considered among the parochial rights, as stated by Clement, on burials, and in a document from Marsorum, January 30, 1830, §. None. Therefore, the association of the corpse of Charles, who died in his parish, belonged to him. This right of association was even more clearly his, because, according to the common law, the funerals of strangers and those who have resided for a short time within the boundaries of his parish, having received the sacraments there, are reserved to the parish priest, as taught by Cardinal Petra and Passerin, in the aforementioned passage. Therefore, a contrary

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custom, where it has legitimately prevailed with regard to funerals and burial, should be equated to a privilege; and therefore, beyond the case in question.

[*Latin ed. p. 44*]

44. REGARDING THE RIGHT OF ASSOCIATION: The practice of funerals and burial should not be obstructed. Therefore, it was argued that, in cases of conflict, the proper right of the parish priests should prevail over any privileged right. This was supported by one example, and also by the present case, in which the deceased Charles was associated with the cathedral church, just as others had been associated with the deceased, whether within the city of N. or outside the city, who had chosen burial in that location. Based on these and other considerations, the question to be resolved is: "To whom does the right of association of a corpse belong in this case?"

RESOLUTION: The Holy Congregation of the Council, having considered the question on December 22, 1866, judged that it should answer affirmatively in favor of the parish priest, Saint Juvenal.

FROM THIS, THE FOLLOWING CAN BE GATHERED:

I. Although, throughout the various ages of the Church and with various customs, different places have been designated for the burial of the bodies of the faithful (1), (1) It has been observed that, according to the conditions of time and society, different places have been designated for the burial of the bodies of the faithful; but it is appropriate to note here, as if two extreme limits, that in the early centuries of the Church, such places were located outside the city walls, since, among the Gentiles, it was not permitted to bury the dead within the city, as can be seen from a passage in the Twelve Tables: "Do not bury your dead within the city, nor burn them." And as it is written in Book 3, paragraphs 1-3, section 5, concerning the violation of a tomb: "The Divine Hadrian established a penalty of forty gold coins for those who bury within the city, ordering that it be paid to the treasury, and the same penalty was imposed on the magistrates who allowed it; and the place was to be publicized, and the body was to be removed... And it is necessary that imperial laws obtain their force and be valid in every place." This right was confirmed by Diocletian and Maximian, as can be seen in Book 12, chapter C, concerning religion and expenses for funerals, with these words: "The remains of the dead have long been prohibited from being buried within the city, so that the sacredness of the municipalities may not be defiled." Therefore, to bury a dead person within the city was considered by the Gentiles as a pollution of the city. However, over time, the opposite custom gradually prevailed among Christians, whose bodies began to be buried within the city. Emperors and Kings obtained this priv-

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ilege (as taught in the Devotional Institute, Title IX, section 2, concerning burials), and they were most often buried in the atrium and porticoes of the Church. Later, these places were also opened to the entire population, and meanwhile, burial within the church was granted to them, along with abbots and other outstandingly pious men, a privilege that bishops had long held before others. Finally, a place for burial was permitted to all within the church. Innocent III wrote to the Archbishop of Genoa, as can be seen in chapter 3 concerning burials: "Your fraternity..."

[*Latin ed. p. 45*]

OF THE RIGHT TO ASSOCIATE A CORPSE. 45. Nevertheless, the right of the faithful to establish a sacred burial place for themselves remains. 1. The right of burial, whether pertaining to the Parish Priest or to others, and which may conflict with the aforementioned right to establish a burial place, must be entirely silent. 2. However, the right to associate the deceased's body with an established burial place properly belongs to the Parish Priest. "We believe that the tombs and cemeteries of the dead have been arranged since ancient times near those churches and monasteries, where the gatherings of religious brothers are held, and where prayers and the solemnities of Masses are frequently celebrated, both for the living and for the dead. Therefore, it does not contradict the devotion and extreme will of those who desire to be buried near such churches." "But those who, abandoning the ancient churches and the tombs of their fathers and other ancestors, contrary to the custom of the Fathers of the Old Testament, who were commanded to be buried with their fathers, transfer themselves to new and less religious places, seem to act irrationally and against custom... which impious men, through their manner of thinking and acting, have introduced into Christian society to a greater or lesser extent. For the ancient Christian custom was established by the piety of the faithful, who from the earliest centuries of the Church most eagerly desired to be buried near the relics of the martyrs and near the churches, so that they might be aided by the merits of the martyrs and by the prayers of the faithful; which also greatly fostered the piety of the living faithful, for the frequent thought of their most esteemed ones, whose bodies are hidden within the temples of the cities, excites with equal frequency thoughts of the fleeting course of life, and of the resurrection that we await, and of the eternal life to which we ought to strive, etc. But in the present condition of society, this custom has begun to change with the establishment of public cemeteries outside the cities, which, although in some places they have been established for reasons of health (although there are those who believe that the accumulation of corpses makes the air more harmful to health), do not prevent the faithful from choosing another burial place for themselves; but it seems that things have come to this, or at least are tending towards the ancient laws, which did not allow a dead person to be buried in the

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cities, as can be seen from the description of the churches that we made in Vol. II., in which almost all the episcopal cities have a cemetery outside the city. Meanwhile, while all these things are declining under the pretext of improving the prosperity of cities and the health of the air, if anyone wishes to breathe pure air, they must flee to towns, villages, and mountains, in which, as much as possible, the bodies of the dead are buried in churches or near churches. For there are so many polluters of the air in the great cities, from new oils, from combustible and non-combustible vapors, from coal, bitumen, and other substances, that the progress of the arts has induced, that it is not easy to breathe the air that nature provides. The first origin of this contrary custom seems to me to be sought from an impure source, namely, from Naturalism. But what obtains by pontifical law in the case of funerals, in those places where public cemeteries have been established, we have said in the cause of the Law of Funerals, explained in Vol. I, page 85 and 124.

[*Latin ed. p. 46*]

46. OF THE RIGHT TO ASSOCIATE WITH THE DECEASED. I. It is proper for the parish priest to be considered to have this right, even if someone has died in his parish, even if he has resided there for a short time and superficially, and has not been able to receive the sacraments due to a sudden illness. V. Therefore, if the body of a parishioner has been improperly removed from any cause, either within or outside the parish in which he died, while it is being transferred to its proper burial place, the parish priest has the right to associate with it, in whose parish he died. VI. In the present case, Livius's body was improperly buried, although it had its own [burial place], and therefore it should be considered as being buried in a place of deposit (1). (1) This is relevant to Chapter 3 on Burials, in section 6, where the following is stated: "If someone has a residence in a city or town, and sometimes goes to a rural village for recreation, or to work on the land there: if he dies there, and not in the church of the aforementioned village, but in his parish, or rather, in that in which the tombs of his ancestors have existed from ancient times, he must be buried: provided that he can be safely transported to it."

[*Latin ed. p. 47*]

47 FROM S., THE CONGREGATION OF BISHOPS AND REGULAR CANONS. September 3, 1864. Summary of the case. There exists a building in the city of N., together with a public church, which the local municipality constructed for the use of Regular Clerics and irrevocably granted to them. After the suppression of the Regulars, it was converted for use as a diocesan seminary, and the local parish priest exercised his parochial rights therein. The Regulars, being restored to their former status, did not much care for that building, especially due to its unhealthy air; however, in recent years,

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having been requested by the Bishop and the highest authority to take charge of the seminary, acting in accordance with custom, they moved into that building with twelve of their members, and undertook the administration and instruction of the seminary. However, the local parish priest, who previously exercised his parochial rights, specifically the right to administer the sacraments, to perform funerals, and to bless the seminary on holy Saturdays, did not suffer any impediment, and, with the arrival of the Regular Clerics, was not prevented from exercising those rights. Therefore, the Sacred Congregation of Bishops and Regulars received complaints, so that his established and protected rights might be preserved. Thus, after hearing about the local custom, the Bishop and the Superior of the Regulars, having had the rights deducted from the parish priest, the matter came to a dispute. Although the question has not been legally defined, since the Rescript of the Most Holy Pope interrupted the case; nevertheless, it will not be inappropriate here to explain what was accurately presented on both sides in the dispute. The dispute is about "optica." We omit from this dispute those things which, although they were asserted or presented, did not lend themselves to reasonable discussion; but the question raised, and the considerations that were made, are as follows.

[*Latin ed. p. 48*]

4-8 CONCERNING SEMINARIES. This matter is indeed worthy of consideration, as it pertains to the jurisdiction of the parish priest concerning the students of seminaries, which are entrusted to religious orders. Therefore, the following questions were raised: I. Whether the parish priest is obligated to assist and administer the sacraments to students who fall ill and die in the seminary. II. Whether, in the event of the death of a student, the parish priest may celebrate the funeral in the seminary church or in his own parish, and whether he may demand funeral expenses. III. Whether the blessing of the seminary on Holy Saturday pertains to the parish priest, or rather to the superiors of the religious order who direct the seminary.

THOSE THINGS WHICH WERE ADVOCATED IN FAVOR OF THE PARISH PRIEST. It is noted that the one who wrote "Consultations from Office" observed that the Fathers of the Council of Trent, in their most salutary decree concerning the erection of seminaries, carefully considered all those things which were deemed necessary or appropriate for achieving the intended purpose. Indeed, no mention was made of exempting seminaries and their students from the jurisdiction of the parish priests; rather, their rights were preserved according to the aforementioned canons. Furthermore, this is confirmed by the special privileges which the Supreme Pontiffs are accustomed to grant, particularly when it comes to excluding the jurisdiction of parish priests from seminaries; as, for example, was granted by the Most Holy Lord in the Constitution "Cum Romani," issued in the year 1853, in which the Pontifical College was most

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generously founded by Him, and the Roman Seminary was expressly declared immune and exempt from the jurisdiction of any parish priest. Nor does it benefit the argument that the seminary may appear to have undergone a change in status, since it has been entrusted to a religious order for its governance. For although two moral entities may occupy the same building, and may appear materially to constitute a single building, nevertheless, they are so morally divided that they are entirely distinct and different from each other. And indeed, for the erection of a seminary, a canonical decree is required, and certain formalities must be observed, which make that entity a moral entity of its own kind, which is the seminary. Conversely, for the establishment of a religious community, a canonical erection and the observance of certain formalities are required, which, however, produce a different effect: they...

[*Latin ed. p. 49*]

SEMINARIES. For, that moral body is clearly distinct from a seminary, which is called a religious family. A religious family, in addition to the usual perpetual vows, observes the particular Rule and Constitutions of its Order; whereas, those who reside in a seminary for a time, in order to be instructed in doctrine, good morals, and piety, follow the Constitutions of the pious institution itself, which have nothing in common with the Constitutions of religious orders. Hence (he continued), it would not be with better counsel that Trent, in Session 24, chapter 11, concerning Reforms, sought to extend the exemption of Regular Canons to those also who serve them and reside within their walls and houses, and live under their obedience. For, the distinction between one moral body and another clearly demonstrates that the case of which the Council speaks is entirely different; therefore, that disposition cannot be applied to the present case. And to this, a second reason is added, namely, that a seminary is not for the sake of a religious family, but a religious family is for the sake of a seminary; so that, in a certain sense, the seminary may be called the principal thing, and the religious family the accessory. Especially in the present case, in which the seminary already existed canonically: it is indeed absurd to say that the accessory communicates its nature to the principal. Moreover, if the Council of Trent, in the aforementioned passage, extends the exemption of Regular Canons to those who serve them and reside within their walls and houses, and live under their obedience, it did so not for any other reason than that the servants truly form part of the religious family to which they serve, and that those who dwell within the walls are subject to the regular discipline. These things cannot be said of the students of a seminary; for, these students obey the Regular Canons, but they do not serve them, and they give their obedience not according to the Constitutions of the Regular Canons, but according to the rules of the seminary itself. These things were confirmed by certain examples: for instance, in the case of St. James of

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Chile, in the Erection of the College, the Prior and the General Vicar of the Order reported to the Sacred Congregation that, with the approval of the citizens and the authority of the Archbishop, they had erected a seminary or college near the monastery garden, in which poor nobles would be fed with suitable sustenance and instructed in the sciences. One of the religious was to perform the office of Rector; the others were to perform the office of teachers. *Acta, tom. III., fase. XXV.*

[*Latin ed. p. 50*]

Concerning Seminaries: It was diligently pursued. It was established that the Rector, along with an associate, should reside and dwell in the Seminary or College, accompanied by two lay Religious. However, the Masters were not obligated to reside there in order to perform their duties. An oratory or chapel should be present, in which not only the students, but also outsiders who might be willing to fulfill the obligation of hearing the Holy Scriptures on festive days, should gather. The purpose of this College or Seminary was to serve Religion and the State, to comply with the statutes of the Order, etc. Therefore, the necessary and appropriate facilities were required to accomplish this. The Sacred Congregation, having heard the highest superiors of the Order, and also considering the vote of one of its Consultors at the general meeting on March 6, 1846, addressed the following question for discussion: "Whether and how approval should be given to the requests of the Reverend Fathers Francis Alvarez, Prior and General Vicar of the Order of the Dominicans of St. James of Chile." The Fathers responded: "Affirmatively, and with the following stipulations: 1° That the donation should be made in the name of the College, and not of the Seminary; 2° That the existence of the College should be established in such a way as to avoid any conflict of jurisdiction, and to ensure that each party, namely the Ordinary, the Parish Priest, and the Religious, retains its rightful place; 3° That the faculty to erect an oratory within the building, for domestic and not public use, should be granted." Another example was brought forward, also debated in the Sacred Congregation, the Episcopal Congregation, and the Royal Council. In this case, it concerned a College called Maria Ludovica, which was initially governed by secular priests, but in the year 1838, it was entrusted to the Regular Clerics of St. Paul, commonly known as Barnabites (so called from their first College, located near the Church of St. Barnabas in the city of Milan). These Barnabites entered with a sufficient number to form a religious community. The Parish Priest, both before and after this transfer, freely exercised all his parochial rights in the College. However, in the year 1847, the Bishop issued a decree granting the Barnabites the faculty to act without any dependence on the Parish Priest. The Fathers of Trent used the term "Seminary" to indicate a particular purpose for which colleges were to be established in each diocese, namely, that they should be Seminaries for the Ministers of

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God, to which end many appropriate laws were enacted. Therefore, those colleges which do not entirely correspond with the intentions of the Fathers of Trent, are better called by the generic name of "colleges," rather than "seminaries," so that confusion is avoided through the identity of names for different things.

[*Latin ed. p. 51*]

SEMINARIES. 51. To administer the sacraments of penance, the Eucharist, and extreme unction, as well as to perform funeral rites, not only for the Religious, students, and their servants; but also for guests and any persons who may, by chance, be afflicted with a sudden illness within the same college. At the request of the Parish Priest, and in pursuit of his rights, whether by canon law or by custom: and conversely, opposing the Barnabites, the Apostolic Constitutions are preferred, which the Theatines, Benedictines, and others claim to be entitled to by virtue of their rights and privileges, specifically the Constitution of St. Pius V, *Ad immarcescibilem*, and the Constitution of Gregory X, *Romanus Pontifex* (1), a doubt was brought before the general assembly on July 21, 1848, for deliberation: "Whether the Decree of the Bishop of Parma concerning the exemption from parochial jurisdiction of the entire college called 'M. Ludovica,' under the care of the Clerics Regular of St. Paul, should be maintained." The Fathers replied: "The Decree of the Bishop must be amended, namely, while maintaining the tenor of said decree with regard to all and each Clerics and Brothers of the Congregation of St. Paul, and with regard to their domestic servants and families who actively serve the Religious, including those of the aforementioned house who reside within its walls and live under the obedience of the aforementioned Religious, according to the prescription of the Holy Council of Trent, Session 24, chapter 11, concerning Reforms, and the Constitution of Gregory XIII, beginning with 'Circumspecta,' dated November 25, 1580, the rights of the Parish Priest in the case of death, as stated in the aforementioned decree, remain intact; and furthermore, the Superior of said college is obligated to provide the Parish Priest with a list of the Religious, students, guests, servants, and other persons residing in the same house, each year." (1) St. Pius V, in the aforementioned Constitution concerning the Clerics Regular of the Theatines, granted that "both the superiors and the others... residing in any place... may administer the Eucharist, even for the sick, and also, to those who are at the point of death, extreme unction, to other Clerics and Brothers of the Congregation, and also to mercenaries, servants, workers, and slaves of the aforementioned, and to any secular and external guests... without the permission of any priestly curators... or of any others whatsoever." Gregory XV, with most generous clauses, granted the Barnabites full communion of all the privileges enjoyed by the Theatines. However, as we shall see below, Gregory XIII had already

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restricted the privilege granted by St. Pius V, according to the terms of the Tridentine law.

[*Latin ed. p. 52*]

52. SEMINARIES. Since the Decree of the Council of Trent and the Constitution *Circumspecla* had been cited, words from both documents were brought into our case. In one, the exemption of Regular Canons, as mentioned above, extends even to those who serve in the aforementioned places...and reside within their walls and houses, living under their obedience; in the other, the same exemption is denied to all, except for those who actually serve in the churches and other places of the aforementioned Knights (of St. John of Jerusalem, concerning whom the matter was specifically addressed in that Constitution, although the Constitution itself subsequently came to be applied to all Regular Canons), and who reside within their walls and houses, and live under their obedience; all of which are to be understood together, except for those who have legitimately and according to the rule of the aforementioned religious order made their profession, of which the local Ordinary must be informed (1).

(1) The text of the cited Constitution of Gregory XIII is as follows: "With regard to all matters in which the Roman Pontiff acts, it is the practice, through his foresight, to sometimes recall those things which have been issued by the Apostolic See for certain and even reasonable reasons, and, with a different reason arising, especially to prevent offense to the people, and after due consultation with the Bishops, to introduce a declaration and to make other arrangements, as it seems fitting in the Lord, considering the circumstances of the times, affairs, and persons."

"Now, it has been discovered that many secular clergy, as well as laymen, are abusing the graces and privileges with which the Apostolic See has generously endowed the Master, the Convent, and the Knights of the Hospital of St. John, who have always deservedly benefited the Christian republic, and their churches and institutions; and that they should be subject to the law of a more religious life, but instead seize the opportunity for a laxer life, while often claiming empty titles of exemption and liberty; some claiming that they are attached to the churches of the aforementioned hospital in some way as Vicars, Chaplains, Ministers, or Servants; others claiming that they are Colonists, Procurators, and Servants of the aforementioned Knights, even though they live freely in their own houses, nevertheless, they claim that, by virtue of the privileges and customs of the aforementioned Knights, obtained even after the Council of Trent by our predecessor, the blessed Pope Pius V, they are exempt from all jurisdiction of the Ordinaries, and cannot be inquired of, visited, punished, or corrected by them, and that, by this very fact, they are promised impunity for their offenses, causing great offense to the people and constantly increasing the

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disturbance in the jurisdiction of the Bishops."

"Therefore, wishing to provide a remedy for this evil, which had been foreseen by the aforementioned Council long ago, we, by our own motion, not at the urging of any petition presented to us on this matter, but out of our own will and deliberation, and with full knowledge of the fullness of the Apostolic power, decree that all and each of the privileges, exemptions, graces, and indulgences granted to the Master, the Convent, the Knights, and the Militia of the aforementioned hospital..."

[*Latin ed. p. 53*]

SEMINARIES. 53 Furthermore, he maintained that the Sacred Congregation of Bishops and Regular Canons had had the opportunity to address the rights of Parishes concerning Seminaries. Indeed, this occurred in a Decree of June 15, 1860, which was intended for the Marists, and also in another Decree of June 17, 1863, which concerned the Sulpicians: in this latter, for the same reason as in the case of the Marists, derogating from canonical law and the Council of Trent, it granted them the permission, in cases of infirmity, to administer the Sacrament of Extreme Unction, both to members and to students of the Seminaries, with the permission of the Ordinary, preserving the rights of the Parishes; and furthermore, that during the Easter season, the students might fulfill the precept of receiving the Eucharist in the chapels of the Institute. Moreover, it granted the power to accept the administration of Seminaries without further permission from the Apostolic See, and to administer them in spiritual and temporal matters, without the intervention of representatives; but in such a way that in all things they should depend on the Bishop, and at the end of the year should render an account before two from the Chapter and two from the clergy, the Rector being present. These matters, which were being confirmed by the writer of the Consultation with a certain degree of emphasis, concerned the Apostolic Benevolence which should intervene when Seminaries are entrusted to a particular Order or Institute. It is read in the Annotations to the Constitutions of the Congregation of the Most Holy Immaculate Conception, by the aforementioned Father Mehenno, that by our predecessors and the aforementioned See, in general or in particular, nothing has been granted or confirmed, and that the letters of the aforementioned Pius V, concerning their confirmation, issued at Rome, near St. Peter, with the Fisherman's ring, on November 29, 1568, in the third year of his pontificate, are reduced, according to the terms of the present document, to the Decrees of the aforementioned Council, and that nothing has been taken away from those privileges, exemptions, graces, and indulgences, concerning the Ordinaries of the places, so that the Vicars, Chaplains, Ministers, Servants, Adscripti, Colonists, Procurators, and Family members of such military personnel, to whom these have already been granted and to whom they may be granted in the future, may be inquired about, visited, punished, and

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corrected by these Ordinaries, as delegates of the Apostolic See, concerning their excesses, crimes, and offenses, even outside of visitation, whenever and as often as it is necessary, and that they are fully subject to the jurisdiction of these Ordinaries in the aforementioned matters (except for those who serve in the churches and other places of the aforementioned military personnel, and who reside within their precincts and homes, and who live under their obedience, all of which should be understood to be together: or those who have legitimately and according to the Rule of the aforementioned Religion, of which the local Ordinary must be informed). And so, etc., followed by clauses of preservation and derogation.

[*Latin ed. p. 54*]

54. SEMINARIES. n. 5. "Since Seminaries, according to the Council of Trent, are under the jurisdiction of the Bishops, with the advice of their representatives, they cannot entrust their care to any Institute without the express permission of the Apostolic See, even if the Institute itself has been approved by the Apostolic See in general for the direction of Seminaries. Therefore, in each case, the permission of the Supreme Pontiff must be obtained." The same was observed in the Annotations concerning the Approval of the Pious Congregation for the Missions, n. 4: "Bishops cannot grant the direction of Seminaries to regular orders, or other Institutes, without the permission of the Apostolic See." And indeed, according to the Council of Trent, there are many statutes concerning either the economy or the discipline, which can scarcely, or not at all, be reconciled with the governance exercised by the Regulars; therefore, the Sacred Congregation of the Council warned that, if, from the reports of Bishops concerning the state of the diocese, it learns that a diocesan Seminary has been entrusted to Regulars, or religious Institutes, it is accustomed to write back, stating that it has not found that the Apostolic approval is lacking, or at least that the matters are arranged in such a way that the rights established by the Fathers of Trent remain intact for everyone (2)."

WHAT RIGHTS WERE ADVOCATED BY THE REGULARS IN THEIR FAVOR. - Those who defended the rights of the Clergy of Regular orders, wrote a copious account for the sake of truth, and at the beginning, opened the way for resolving the question by making certain general observations: they observed, in fact, that there are two ways of treating the present question, one too complex, and the other too general. And concerning the excessively complex discussion, they noted: 1°. That the Regulars properly so-called must be distinguished from Congregations of secular Priests, who, as such, do not enjoy the privileges of the Regulars: therefore, arguments drawn from these [secular priests] cannot be referred to them. 2°. (1) Such observations are found in the pamphlet entitled "Methodus," which was prepared by the Sacred Congregation for Affairs, and consultations of Bishops and superiors of Regular orders, and presented by the Most Reverend

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Archbishop Philippen, secretary, for the use of the secretariat, pages 25 and 32. (2) This necessity for Apostolic approval, as it arises from the law of Trent concerning Seminaries, can also arise from the part of the Constitutions of the Regulars, which do not harmonize with the duties and offices that the care of Seminaries entails.

[*Latin ed. p. 55*]

SEMINARIES. There are diverse ways in which Regular clergy administer the government of seminaries: for in both communities, each remains distinct with a separate dwelling; but sometimes a true union is established, when both possess the same building entirely, so that jurisdiction cannot be exercised in the dwelling of the students unless it is also exercised in the dwelling of the Religious. 8°. There are cases in which some particular circumstance is present, such as the custom which, as noted in the aforementioned case of Kosso, was favorable to the parish priest: especially when a matter is judged between others, it does not harm others, as is evident from Cap. I de sent. and the entire title of the Code concerning matters acted upon between others. Regarding the excessively general manner of treating a case, I observed that, when privileges are involved, the fundamental principle immediately arises: a privilege is an odious thing; but no one is ignorant that in law, general principles are subject to exceptions, and therefore the nature of any particular privilege must be examined. In examining this, the words of the Council of Trent were recalled, in which the privilege in question is contained: "they serve, and live within the walls of the monastery"; and it was observed that the difference in the persons to whom the privilege pertains does not change the nature of the same privilege, especially in the case of those about whom we are speaking. For we are speaking of students in the seminary who live in the same house and are subject to the Regular clergy who direct them to a much greater extent than others: for those who serve are simply subject in some respect, namely, in respect of that to which they have obligated themselves; but the students are fully subject to the Regular clergy, so that whatever they do, in almost every thought, they depend on the Regular clergy: which is all the more worthy of consideration, because we are dealing with parochial rights, which by their very nature tend to spiritual education, while those who serve are not subject to the Regular clergy in spiritual matters, by reason of their office or contract; and furthermore, noting the condition of the students who are being educated for the service of the Church, which is far superior to the condition of pious servants, it was concluded that the Fathers of Trent could not have preferred the latter. But seeking to know what the judgment of the Fathers of Trent was regarding the nature of this kind of privilege, it was observed that the purpose of exemptions is

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to restrain, as is evident from the words of that chapter.

[*Latin ed. p. 56*]

56. SEMINARIES. It is established: Since the privileges and exemptions, which under various titles are granted to many, are today recognized as causing disturbance in the jurisdiction of the Bishops, and as affording to those who are exempt an opportunity for a more lax life, the Holy Synod decrees, etc.: but although the minds of the Fathers were inclined towards such a restriction, nevertheless, concerning the words: "they serve and live within the walls," all were silent and agreed, as is known from the history of the Council. For the Fathers, supposing the exemption of the Regulars, could scarcely say that this was a privilege, since it immediately follows from the aforementioned exemption; nay, rather, it is a good thing to be commanded, since the parish priest can never consult for the spiritual good of those servants as the Regulars themselves, as their masters, can. And if we speak not of servants, but of the students of Seminaries, whom canonical discipline follows with many favors, and who are not dependent on the Regulars in anything, but are entirely and fully, especially in spiritual matters, subject to them, then no one could, without opposition to the judgment of the Fathers, affirm that such a privilege is odious. And this was also the mind of the Holy See, as it was evident from the faculties granted to Institutes of Secular Priests, although these do not enjoy the privileges of the Regulars; nay, even to Rectors, who do not belong to any Institute, as certain examples are found in Rome. With these general observations made, the same jurist approached the question more closely, considering the case in which both communities, namely, the Seminary and the Regular family, are so joined together that they have the same house, as in the present matter; and he observed that in this case the exemption of the Regulars would carry with it the exemption of the students of the Seminary; for the exemption, which belongs to one of the parties, extends to the other, according to even civil laws, as Benedict XIV says in his *Synodal Decrees*, I, A, c. 6, n. 12, in fine. He observed that this doctrine could be confirmed from the very Apostolic permission, which is necessary for Bishops who wish to entrust the management of Seminaries to the Regulars. For, as Benedict XIV states in the aforementioned work, I, 5, c. 11, n. 9, this Apostolic permission is necessary when Seminaries are to be entrusted to the Regulars, citing a certain American case discussed in the Sacred Congregation of the Council.

[*Latin ed. p. 57*]

SEMINARIES. 57, 1722. Indeed, as can be read in that matter, "The Bishop of the city of ConcepciÃ³n in South America gave letters to the Holy Father," in which, after describing the deplorable state of his diocese, he says that "all evil has proceeded and proceeds from the lack of suitable teachers, who can cultivate the young men destined for the clergy with

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virtuous morals and intellect, and that he has been able to devise no other more effective remedy than the establishment of a seminary, in accordance with the decrees of Trent, and that he has already laid the foundations for it for two years, so that (these are the words of the letter): from that foundation, progress has been made in these two years, which I consider, this is my primary concern and endeavor; in this, I am freely willing to expend all that divine providence has granted me, even not retaining the necessary furnishings." But to these considerations, the same Bishop added: "Such a work, begun and to be completed with so much expense and so much labor, will not endure unless it is entrusted to the Fathers of the Society of Jesus, since suitable men cannot be found from the secular clergy for the administration of the seminary." Regarding the question: "Whether and how permission should be granted in this case," the Holy Congregation responded: "Permission is granted, but with the condition that the students be appointed by the Bishop, and that the seminary be under the patronage, protection, and jurisdiction of the Bishop." From this declaration of the Holy Congregation, a jurist deduced the following: since common law requires that seminaries be dependent on the Bishops; and since, by tradition, a seminary, when removed from the jurisdiction of a religious order, is subject to the jurisdiction of the Bishop, hence the necessity of an Apostolic dispensation arises; but since all of this would not be true if the regular order did not communicate its own exemption to the seminary; hence, the same resolution implicitly declares that the regular order truly communicates its own exemption to the seminary; therefore, in granting these permissions, the Holy Congregation has judged it necessary to expressly reserve the Bishop's jurisdiction, so that it may remain intact. Therefore, he concluded, a parish priest cannot claim jurisdiction over a seminary that is connected to a regular community, since neither the Bishop nor the regular community can exercise their jurisdiction unless this is reserved. But, returning again to the consideration of the Tridentine privilege, which he had previously maintained was not objectionable, he considered that, in this case, it would be necessary to...

[*Latin ed. p. 58*]

58. He argued as if it were a privilege that encompassed the present case: he was indeed inquiring what was the object of that Decree, to which the minds of the Fathers were turned; whether it was the condition of the clerics, or rather, a double circumstance joined together, namely, living within walls, and living with dependence. He demonstrated that the former was to be rejected: and, by the comparison he instituted between the clerics and the students of the Seminary, both living within walls, he concluded that the students of the Seminary, with much greater reason, depended on the Regulars than the clerics, as he had noted above, and therefore could not be considered excluded by the Decree. He confirmed this from practice,

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and especially from the case of Coimbra, of March 12, 1757, which was presented three times before the Sacred Congregation of the Council, and finally, with a clause, and moreover, dismissed. In that case, it was about a Seminary being established for the diocese of Coimbra. The Bishop, intending to build the institution most generously at his own expense, and since the work would take a long time, had rented some buildings in which young men could be educated in the meantime. Since secular teachers were either not easily found, or easily left, he considered it better to invite the Pious Workers of the Congregation of Aragon, and to unite the new Seminary permanently with their Congregation: and so the Bishop established new statutes, by which the Seminary was permanently united to that Congregation, and exempted from the jurisdiction of the parish. This Supreme Pontiff confirmed these new statutes and the union. The parish priest, bearing this badly, appealed, and as the case came before the Sacred Congregation of the Council, with the Apostolic Letters containing not a single word about the exemption; and since the confirmation of the statutes had been made in a general form, and not in a specific one, he argued that those letters could not be interpreted as pertaining to a parochial exemption: and that the union of the Seminary with the Congregation of the Pious Workers was not a subordinate one, but equally principal, and therefore changed nothing about the rights of either place or community. On the contrary, the Rector of the Seminary argued that this could have been done by the Bishop as Founder, and all the more so because the Bishop had not done anything new, since in Spain, and especially in the diocese of Toledo and Oriola, Seminaries were united with Regular Orders, or Congregations, which possessed the privileges of the Regulars.

[*Latin ed. p. 59*]

SEMINARIES. There are 59 [seminaries], and this must be maintained; and every doubt must be removed by the Apostolic confirmation, since it was not necessary that it be in a specific form, for it was sufficient that the Pontiff expressly confirmed the union from which the exemptions granted to the seminary followed: and this union was a subjective one, since the seminary was incorporated into the Congregation. Regarding the doubtful question: "Whether there is a place for the exercise of parochial rights and functions in the seminary of Coimbra," or rather, whether it consists of the freedom of the seminary in the case: "The Holy Congregation responded: Negatively to the first part, affirmatively to the second." For this reason, the aforementioned jurist argued that the only valid and correct reason in that case was the subjective union that had been established between the seminary and the aforementioned Congregation, through the tradition of the seminary to that Congregation, while the other reasons that were brought forward lacked strength: for the Bishop, although the founder of the seminary, could not infringe upon the parochial right that had already

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been established; nor did he do so at the very beginning, since the seminary had existed for many years; nor could the Apostolic letters, established in a general form, infringe upon the parochial right; since it is well known that a confirmation made in a general form does not alter the value of the thing, nor does it confirm a privilege, especially against the right of another, Reiffenst. tit. de Privil. n. 76, Schmalzgr. tit. de Confirm. utili n. 4, Rota coram Coccino decis. 1573, and 1763, etc. Therefore, he concluded that the resolution given was based only on one reason, which was requested from the union of the seminary with the aforementioned Congregation, so that it must be held that not only the servants, but also the students of the seminary, who live with the religious and depend on them, participate in the exemption from parochial jurisdiction. This was further confirmed by practice, according to what is stated by Pellizarius, in the Manuale Regularium, in Tractate 8, chapter 3, n. 302, at the end, and specifically by Pichler, who explains the practice of Canon Law, decisions 177 and Schmalzgrueber, cons. 32. After these extensive arguments, the jurist proceeded to another special argument, taken from the particular privilege of communicating privileges granted to the Cleric Regulars of Somascha. And he raised three questions in this matter: 1. Whether the privilege of the Somaschians was certain; 2. Whether the regular Order in question possessed such a privilege; and 3. Whether the seminary in question was subject to the jurisdiction of that Order.

[*Latin ed. p. 60*]

60. SEMINARIES. Whether these privileges should be extended to them: 3°. Whether such an extension could be adapted to the privilege in question. Having demonstrated an affirmative answer to the first two points through papal constitutions, the process proceeded to the third: difficulty could arise from three points, either because the privilege of granting dispensations was not so complete as to encompass this, or because the Somaskian privilege was attached to a particular place; or because the nature and quality of the privilege was so grave and singular that it could not be presumed to be included in any right of dispensation. However, it was shown that none of these three difficulties applied in the present case: not the first, because the right to grant dispensations had been granted in the most explicit terms; not the second, because the Somaskian privilege had been granted to all and sundry persons residing and staying in orphanages, seminaries, academies, and colleges; not the third, because this is a privilege that is commonly granted not only to religious orders, but also to secular priests, and furthermore, as far as religious orders are concerned, it can scarcely be called a privilege, since it is a legal consequence immediately derived from the exemption of religious. With all of this established, regarding the fourth point, the right to a funeral and burial in the event of the death of one of the students, the jurist was not particularly concerned, readily granting

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this to the parish priest. However, all of this concerning the main point of the matter had to be carefully discussed and presented to the judgment of the Fathers. "But the Reverend General," as Angelus Lucidi recounts in *Opera de VV. SS. LL.*, Vol. II, page 357, "eager to find a way between the two factions of the clergy, took a different approach." His Holiness, not unaware of the Prefect of the Sacred Congregation for Bishops and Regular Canons, authorized the General to take over the administration of the seminary. "Since this had not been stated in writing, the same Supreme Pontiff, through the same Sacred Congregation, humbly requested that what had been permitted verbally be formally recorded in a written decree." To this end, on September 3, 1864, the following decree was issued: "His Holiness approved, with the exemption of both the seminary and the attached church, along with the confraternities located there."

[*Latin ed. p. 61*]

SEMINARIES. 61. They are under the jurisdiction of the Parish Priest, with the exception that the Parish Priest shall receive one-fourth of the funeral expenses in the case of the death of students, and shall be responsible for the upkeep of the Seminary, provided that they reside within the confines of the Seminary, and also of the aforementioned confraternities, so that the members may enjoy the right of burial in the aforementioned church; but in such a way that the Seminary and the confraternities remain under the protection, authority, and subjection of the Bishop. Contrary things are forbidden, and it must be notified to the Bishop.

FROM THE ABOVE, IT CAN BE GATHERED THAT:

I. The Fathers of Trent, in establishing the erection of seminaries in each diocese, have arranged all things so that the seminaries are under the authority of the Bishop, who, according to the aforementioned law, with the assistance of a secular cleric, shall direct the seminaries in the diocese (1).

II. Those same Fathers did not in any way consider the case in which seminaries might be entrusted to religious orders, especially due to the lack of suitable teachers, and the Bishop would be compelled to do so.

III. Therefore, seminaries cannot be entrusted to religious families without Apostolic permission; and such permission should be granted in such a way that the Bishop's authority remains expressly preserved.

IV. However, the question arises from what has been stated, whether, by the transfer of a seminary to a religious family, without any mention of parochial rights, those parochial rights remain in force or are lost by that very act.

V. Indeed, a conflict arises between a special privilege and a local custom; namely, the common right which assists the Parish Priests, and the privilege of the religious, by which those who serve them and reside within

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their confines and houses, and live under their obedience, are exempt from common jurisdiction.

VI. It seems appropriate, according to the intention of the law of Trent, that seminaries entrusted to properly constituted religious families, who live with them within their confines, should be exempt from parochial jurisdiction, at least in the administration of the sacraments.

(i) See what we have said concerning Seminarians Voted to a Religious Order, I, page 691.

[*Latin ed. p. 62*]

62 APPENDIX 1, ON THE PRAYER OF BISHOPS TO THE HOLY FATHER, ACCOMPANYING THE APOSTOLIC ENCYCLICAL OF DECEMBER 8, 1864, AND THE LIST OF ERRORS ATTACHED TO THOSE SAME ENCYCLICAL LETTERS. The prayer, which refers to the class of errors presented to the Holy Father, as written by the Bishops on page 17, is declared to be, or certain special sanctions are given, so that they may be considered condemned and rejected. The Catholic Bishops, acting from their sees, have petitioned the Holy Father, and they again confirm this in the present document; this revives doubts that certain Catholics at that time held concerning the Apostolic Encyclical Letters and the attached Syllabus of Errors. The question raised at that time, and which we ourselves have been asked about in letters from our friends, is whether those things which were condemned in the Encyclical Letters and the Syllabus were to be considered as pronouncements made by the Holy Father from the chair of authority. There are, of course, certain ways and forms in which the Holy Father never speaks, except as they say, from the chair of authority; but it does not follow that, through these ways and forms, he, as the universal teacher of the Church, cannot manifest his will: indeed, these are so evident that any further observation would be superfluous. For the voice of the supreme teacher is not attached to external forms, and all the more so because, due to the variety of additions and the type of errors, it is not always possible or expedient to define them by a dogmatic bull. Furthermore, it is not necessary that whenever the Holy Father speaks from the chair of authority, he intends to propose a doctrine.

[*Latin ed. p. 63*]

It is necessary to define these matters directly as matters of faith, and to condemn opposing errors as heresies. He who should think otherwise would be compelled to affirm that many solemn dogmatic Bulls, issued from the time of the Council of Constance, in their expositions and in the condemnations they contain, are, for the most part, not statements made by the Roman Pontiff speaking from the chair [of Peter]. And how far these are from the truth, no one can fail to see. With these things established, the Encyclical Letters, of which we are speaking, sent to all the Bishops of the

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Catholic Church, manifestly intended the Roman Pontiff to teach the entire Church, condemning certain propositions, and ordering that no Catholic should consider them to be true. Furthermore, in the Syllabus, he ordered all the Bishops to be reminded of other errors which he had condemned on other occasions; therefore, each individual proposition must be held to be of the greatest importance, as can be seen from the documents from which they are derived. But this is not enough; to the propositions that are proscribed, there is added the force of a new prohibition, by order of the Roman Pontiff, whereby they are reduced to a summary, so that they are presented to the Church as condemned and rejected. Therefore, any reason for doubting, as we have explained above, is devoid of value. But you will say: what punishment will be meted out to him who thinks differently from the Roman Pontiff, and who teaches what the Roman Pontiff has taught, and is therefore subject to censure? Will he be considered a heretic, or will he be deprived of communion with the faithful, or will he be suspected of heresy, etc.? To this question, as a general answer, I say that, solely by virtue of the aforementioned Encyclical Letter and the Syllabus, he who asserts otherwise will be considered guilty of the most serious disobedience, for he would be submitting his understanding to the supreme Teacher of the Church, divinely instituted, who condemns and rejects these propositions. As for the individual propositions, it pertains to the theologians to define whether, besides the guilt of disobedience, anything else is involved that would make this act of disobedience, or heresy, or something close to heresy, subject to another censure. These things seem to be true, if we consider both the aforementioned Encyclical Letter and the Syllabus by themselves. But a new light is added to what we have said, if these documents are considered in the order in which they were received by the entire Episcopate. It is well known that, as soon as such documents came out from the Vatican, "after many preliminary prayers offered by the Roman Pontiff to God," they were sent to the Bishops, and each Bishop, in his own seat, rejoiced unanimously that Peter had spoken through Pius, and offered the Roman Pontiff the highest thanks and praise. To this celebrated event, we have seen a new splendor and confirmation added in these present days.

[*Latin ed. p. 64*]

"Through prayer, which the Bishops of Rome, united with Our Holy Father, have offered to us, it has been most clearly established that the Fathers of Florentini, in the decree of union, defined these words: 'Christ's Vicar, and the head of the whole Church, and of all Christians, and their Father and Doctor, must exist, and he must warn against the errors of the whole world, and must overthrow the natural, supernatural, and ecclesiastical foundations of civil power; and the Roman Pontiff must exist.' And they threaten, saying: 'You must enlighten the universal Church, which

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the Lord has constituted, and dispel the darkness of new doctrines that obscure the minds of men; you must boldly commend to all men, and to the Christian family, those things which are necessary and salutary.' Therefore, all the Catholic Bishops, at least morally, have been persuaded, by the manner in which Your Holiness has condemned the doctrines in question, to judge that they are to be avoided; and so, finally, all agree that what a Catholic must believe, observe, and profess is contained in them, as if they were condemned; and this has been confirmed again with unanimous consent and signed: 'For the great benefit of your sanctity, we give thanks eternally; we believe that Peter has spoken through the mouth of Pius, and that Peter has given these things, and that if anyone were to assert the contrary, and if the Holy Father teaches and has taught, and the Church teaches, to preserve the deposit that has been declared by you, then these things are confirmed; and we also declare, affirm, and announce the infallibility of the Holy Father, in this way, so that all things, which are of My divine will, and which You yourself have judged to be harmful to the good of human society, may be rejected and repudiated. For it would be ruinous to the soul if anyone were to be induced to deny the infallibility of the Church itself, which would certainly be heresy (1)."

"(t) We have not yet included in our publications the praised Encyclical and Syllabus, for this reason, because when these were published, so many copies of those documents had already been printed and distributed, that their insertion seemed superfluous; but since these documents are most famous and will be, we will not omit to bring them forward on this new occasion."

[*Latin ed. p. 65*]

65. FROM THE PARTICULAR SECRETARIAT OF THE CONGREGATION OF THE COUNCIL. REGULAR OR EXEMPT JURISDICTION. November 27, 1856. We report on this serious controversy, which has been fiercely debated concerning the exemption of a certain Italian Chapter from the entire jurisdiction of the Bishop, and which, due to several legal principles brought into the discussion, and due to the resolution of twenty doubts, sheds considerable light on resolving controversies of this kind. Summary of the facts. The Canons of the Cathedral Church of the City of N. believed that they enjoyed active and passive exemption from the ordinary jurisdiction of the Bishop; when the new Bishop first came to govern that diocese, and because the reasons presented to maintain these privileges of exemption did not seem sufficiently clear and valid to him, he brought the entire matter before the Congregation of the Council, so that all points of the matter, after hearing the arguments of both sides, might be carefully considered and resolved. What these points of the matter were can be gathered from the doubts presented at the end and from the course of the discussion. The Congregation of the Council, following its usual

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procedure, on May 6, 1852, first ordered that the Chapter and the Fiscal Advocate of the Episcopal Curia be notified to present their respective arguments regarding the asserted exemption, submitting documents that would either prove or disprove the exemption. Therefore, the Chapter presented several very old Constitutions of various Holy Pontiffs; also, its own Capitular Statutes, confirmed by the Apostolic Delegate in the year 1482; and also certain agreements of concord that had taken place between the Chapter and its predecessors; and diplomas of Emperors and supreme lords of the territory (although, in this matter, they are entirely irrelevant). Acts, Vol. III, p. XXVI, 5.

[*Latin ed. p. 66*]

66. OF ORDINARY JURISDICTION OR EXEMPTION. The Promoter of Justice also presented his rights against the exemption of the Chapter, which, in the end, were reduced to the extent that whatever was contained within the diocesan territory was to be considered subject to the common jurisdiction thereof, unless it was clearly and undoubtedly established that there was an exemption. Since the matter concerned a very serious issue, involving many difficulties, it was referred to the Most Holy Lord. He, with His wisdom, appointed a special Congregation of Cardinals to judge this matter, among whom we mention, for the sake of honor, His Eminence Cardinal Cagiano, Prefect of the Sacred Congregation at that time, and His Eminence Cardinal Caterini, who succeeded Cardinal Cagiano in that office and played a significant part in the prosecution of the case. In a convened meeting on September 4, 1858, four questions to be resolved were proposed (different from those that are presented at the end of this passage here), to which the Sacred Congregation responded collectively with the following judgment: the privileges that the Chapter claimed were found to be insufficiently proven; therefore, in order to end the controversy, it was deemed necessary that the Chapter should complete its canonical statutes in accordance with the Council of Trent within six months; for the completion of these statutes, the Chapter should take as its foundation the integrity of the rights of the Bishop, both in the ecclesiastical functions which the Bishop exercises in any place within the diocese, and in the clergy, without any distinction; the Chapter should retain the right of superiority over the minor clergy in matters pertaining to the service of the cathedral church, as well as the right of patronage in benefices and churches united to the Chapter; and that such canonical statutes should be transmitted to the Holy See within six months for their examination and approval. The Chapter (it cannot be passed over in silence) did not prove to be very obedient, not only to the Bishop, but also to the orders of the Sacred Congregation; for, first, while the pending litigation concerning the alleged exemption continued, it proceeded to exercise its authority against the Bishop, not only as before, but also in

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a more excessive manner, in addition to other excesses contrary to the obedience due to the Bishop; then, only after repeated and more urgent letters, at the end of the year 1854, did it present a volume of statutes to the Sacred Congregation, in which it was found that the Chapter had not at all adhered to the sentiments expressed by the Sacred Congregation on September 4.

[*Latin ed. p. 67*]

JURISDICTION OF ORDINARY OR EXEMPTION. 67 Therefore, having subjected each of these articles of the statutes to examination, everything was brought back to the principles of canon law, and, after corrections made according to the aforementioned decree of the Sacred Office, the Apostolic Constitution was prepared, which would define the statutes, as appears from the second formula of the doubt placed at the end; and when discussion arose on this matter, it was deemed advisable that, with twenty formulated doubts, in which each question was contained, every question should be clarified by the Particular Congregation. These doubts are read at the end of this treatise. Synopsis of the discussion. Although, according to our plan, we must strive for brevity, which should not compromise clarity, we are dealing with a question to which, if we wished to give it too much brevity, we would give a more historical than scientific explanation: so that this may not happen, readers will, we hope, tolerate the observations made, which, by their very nature, require a certain amplitude, which we cannot avoid. ON THE SUBJECT OF THE QUESTION. It was affirmed that all resolutions concerning the matter of jurisdiction are derived from a certain fundamental principle, according to which Bishops are said to have the intention, in law, to exercise ordinary ecclesiastical jurisdiction in all churches, places, and persons established within their diocese: with this presumption of jurisdiction established, it pertains to those who impugn ordinary jurisdiction to prove their exemption; all authors agree on this point; nor is there an example of exemption before the 10th century, as noted in a certain case of the Abbey of Parma before the Sacred Congregation of Rites on December 19, 1801, with Cardinal Baronio dating it to the year 676, and Benedict XIV, in Syn. I, 13, c. 9, n. 2, who also refers the exemptions of Abbots to the 10th century; also in the Constitutions *Causarum* and *Inter multa*. With this fundamental principle confirmed by the decisions of the Sacred Roman Rota, it seemed to be beyond doubt that the Chapter of the cathedral church, of which we are speaking, and its clergy, were within the diocese; therefore, it followed that the Chapter should prove its exemption, whether active, as Abbots of nullius have it, or passive, as inferior prelates of the second or third class have it, according to what is taught by Cardinal

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Petrucci.

[*Latin ed. p. 68*]

68. OF ORDINARY JURISDICTION OR EXEMPTION. Commentary to Constitution Callixti III, vol. 5, page 127, section 2, beginning with Benedict XIV, De Syn. I, 2, chapter 11, number 2: concerning the case of Parmen [illegible] kbatiae, December 19, 1801; and Nullius Ferentilli, September 17, 1814 (1). Since, in law, only three kinds of inferior prelates are recognized, possessing either active jurisdiction or passive exemption, namely, without ordinary territorial jurisdiction, the Chapter, which claimed to be a collective prelature to which it belonged, must have demonstrated that it belonged to one of these three classes; to which end, the Cardinal Peter observed that only three ways are recognized by law to acquire jurisdiction by inferior prelates. For this author, in the aforementioned passage, number 1, teaches: "Jurisdiction can be acquired by inferior prelates in three ways, namely, by origin, by privilege, and by prescription." The first way is called "native," the second "given," and the third "prescriptive": he also teaches that inferior prelates cannot claim a native exemption, as if in the original division of dioceses, some places had been left without a head, that is, not subject to bishops whom Christ, the Lord, established to govern the Church of God. These are confirmed by the authority of Benedict XIV in the Constitution Apostolicae servitutis, § 2, where, concerning a certain case of exemption, he transmitted the following doctrine: "Indeed, even if the origins of this long-standing dispute are very obscure and complex due to their great antiquity, it is nevertheless certain, firm, and undeniable that Oppido, situated in the territory of Putiniani, is located within the diocese of Conversano, and its boundaries are contained within its territory... With this established... it is certainly the case that jurisdiction in the aforementioned Oppido could only have been acquired either by means of an Apostolic privilege, by which the bishop is deprived of a part of his territory and granted to an inferior prelate, completely separating that part from the rest of the diocese, and in a certain way detaching it, or, in the absence of an express privilege, by means of an ancient custom, strictly and thoroughly verified with its proper conditions: for a continuous and peaceful possession of jurisdiction, extending far beyond human memory, exercised in the presence of and with the consent of the bishop, is considered to be of such virtue and efficacy that it seems to be of ordinary and territorial jurisdiction, which cannot be attributed by express privilege, at least presumptively." (1) Recall what was said in the case of Exemption, which we cited on Fol. U, page 342 and following.

[*Latin ed. p. 69*]

JURISDICTION OF ORDINARY OR EXEMPTION. 69 This is all the more so because the native exemption in the present matter was quite

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clearly excluded; for although it was affirmed by Ughelli in *Italia Sacra* that St. Prosdocimus, a disciple of St. Peter the Apostle, preached the Gospel in the diocese in question, enduring the cross at Patavium, and after hearing of the martyrdom of St. Peter, consecrated a temple dedicated to the Mother of God, and the names of ancient Bishops were cited from the time of Constantine the Great: nevertheless, no mention of the Chapter is found in that time. This mention could not have been found, since the institution of the canons is considered to have taken place in the time of Charles the Great; Muratori, *Antiqua, medii aevi Dissert.* 62; and older memories of the existence of this Chapter date back to the 11th century. Therefore, the existence of Bishops, who, according to the sacred canons, are called cathedral, scarcely allows one to imagine that a headless Chapter could have arisen, perpetually divorced from the Bishop. With these things noted, all discussion on this matter had to be restricted to the examination of the given and prescriptive exemption, which, as it is harmful to the ecclesiastical hierarchy, must be shown to be such with due rigor. This is what Cardinal Peter states in the aforementioned place, n. 11: "The given exemption, which is the second way of acquiring an exemption, proceeds from the concession of the Pope and the Apostolic privilege." This privilege separates a Prelate and a certain place from the jurisdiction of the Bishop, and the form of this privilege must be carefully examined to see how it was conceived, Cap. Furthermore, this exemption, if it is a simple passive one, does not introduce jurisdiction over others, but only serves to exempt some from the Ordinary, and to subordinate them immediately to the Apostolic See, or to another constituted Superior Prelate. As for the second species of active exemption, if there has been no separation of territory and diocese, that place exempted remains in the diocese of the Bishop; but if the tenor of the privilege indicates a true separation of territory, for which the words must be clear, then the first species is introduced, namely, the true quality of *Nullius*. But if the acts are compatible with a station in the diocese and without separation, they should not be extended to introduce this separation, which is so odious.

CONCERNING THE PAPAL BULLS WHICH THE CHAPTER CITED. — To prove the exemption by privilege, the Chapter cited the following Bulls of the Holy Pontiffs, namely, those of Alexander III.

[*Latin ed. p. 70*]

70. CONCERNING ORDINARY JURISDICTION AND EXEMPTION. Following the example of Eugene III, it says: "Beloved sons, following the example of our predecessor, we have taken charge of the aforementioned church of St. Peter under the protection of St. Peter and our own protection, and we entrust it to you with the privilege of this document. We confirm your common life, and it is not permitted for anyone to withdraw from it. Therefore, the possessions and goods shall remain inviolate to you,

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as shall the tithes, first fruits, offerings, burials, and the subjection of chaplains and clergy residing in that city, just as you have possessed them up to now. The churches of St. Nicholas and St. John the Baptist, with their appurtenances, the buildings, the enclosure, the furnishings, and furthermore, all tithes, as the Bishop of your church has granted, We confirm these to you and through you to the same church with the authority of the Apostolic See: therefore, to no one, etc." Alexander III confirmed the same with the same words. Likewise, Lucius III and Urban III. Urban IV also did the same. "Following the example of our predecessors, under the protection of St. Peter and our own protection, and the Pontiff continues with the same words – the tithes, burials, the subjection of chaplains residing in the city – and adds – without the consent of the diocesan Bishop, no one shall presume to build a church or chapel; and concerning the removal of the inconvenience arising from the division of goods, which you, together with the Venerable Brother our Bishop and certain others of his predecessors, have agreed upon, namely, that one person shall be appointed to administer the goods, we, approving, confirm this. " Finally, the chapter presented the Bull of Leo X, which declares that church to be among the distinguished cathedral churches, and which establishes regulations concerning the distribution of choral funds, and that in order to sustain lawsuits concerning the honor and jurisdiction of the church and the chapter, one hundred gold ducats shall be withdrawn from the revenues of the canonry. Therefore, the strength of this Apostolic confirmation was added by means of such regulations: "We approve the aforementioned regulations by the tenor of this present document." Thus, the chapter derived arguments for active, or at least passive, exemption from its own Bishop, from the protection of the Holy See, from the subjection of chaplains and clergy, from the confirmation of expenses for the protection of goods and jurisdiction, and from the title of honor of that distinguished cathedral church. But, on the contrary, the Bishop pointed out that the aforementioned Bulls showed that the chapter had never acted as if it were exempt or separated from the Bishop; rather, the Bishop's consent was always...

[*Latin ed. p. 71*]

JURISDICTION OF ORDINARY OR EXEMPTION. 71. It is understood that confirmations were made by the Holy Fathers. For in each Bull, it is written to the Bishop of your Church: and in the Bull of Urban V, passive exemption is expressly excluded by the words addressed to your Bishop and his predecessors. The privileges of the Holy Fathers do not extend to the point of exempting clerics from the Ordinary, who were subject to the Chapter only by reason of the office they exercised in the Church, to which Church all clerics are assigned as belonging; therefore, the Bishop argued, this does not concern punitive and legislative jurisdiction; and this ordi-

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nary jurisdiction is not conferred by the privilege simply because it does not explicitly mention this jurisdiction; rather, the Holy See does not usually grant such jurisdiction without the express consent of the Bishop, as Benedict XIV states in the Constitution *Causarum*. The following are cited. Furthermore, privileges are directed towards the preservation of goods and temporal rights, which is the nature of almost all the privileges of the Middle Ages, which were granted and enforced by ecclesiastical penalties, to protect the property of the Church itself from armed force, from Barons, from Imperial Collectors, from Advocates, as they claimed, of the churches; Benedict XIV, Constitution *Inter multa*: he also approves the confirmations of these churches and their goods as filial and subsidiary to the cathedral church, according to the ancient custom of which Tomassin speaks in *Veteris et novae ecclesiae disciplina, par. 1, c. 21 and 22*. Bergier, in the Dictionary, under the word *Paroisse*. Bingham, *Origines Christ., tom. 3, lib. 19, c. 18, § 1 et seqq.* Indeed, in each city, there was only one baptismal, parochial, and cathedral church, from which, as from a center, all others derived, and from which depended the care of souls, the Sacraments, and the clergy, so that the Bishop presided over all. The Bishop demonstrated that these words, under the protection of St. Peter and the Holy See, in no way imply exemption, whether active or passive. To prove this, he cited Benedict XIV's Constitution *Causarum*, concerning the jurisdiction of the Bishop of Spires over the collegiate church of the Blessed Virgin in Bruchsal. In two Constitutions of Honorius III and Gregory IX, the second... in which the privileges of monasteries are confirmed, the phrase "under the protection of St. Peter and Ours" is used. However, from this, it cannot be argued that there is an exemption from the authority of the Bishop, as Innocent III clearly responded.

[*Latin ed. p. 72*]

72. OF ORDINARY JURISDICTION OR EXEMPTION. In chapter 1, part 8, concerning Privileges, you inquired whether Clerics and Laics who present Letters of Protection, in which their persons are expressly named, along with all their possessions, and are declared to be under Apostolic protection, are exempt from the jurisdiction of the diocesan Bishop. We respond that, by such letters, they are by no means withdrawn from the power of their own Bishops. This is confirmed by Piton, *Disputationes Ecclésiasticae*, vol. 1, no. 83; the Roman Rota, in the case of *Emerix*, decision 395; and in the case of *Falconer*, in Malta, concerning jurisdiction, 1715. But even more light is shed on this matter by the Bull of Eugene III, to which the others refer, in which these words are expressly stated: "Eugene III, to Bishop Boniface, and to his successors. It is fitting that we attend to the just desires of our brothers. Therefore, beloved Brother Boniface, Bishop, we have graciously granted your requests, and we take the Church of St. Peter... under your authority, with the authority of the Prince of the

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Apostles and our own protection, decreeing that whatever goods are held by grant of the Princes, or will be held in the future by concession of the Pontiffs, or by offering of the faithful, or by other means, shall remain to you, and to your successors, unharmed. To no one, therefore, etc. Given in the year 1153." Also, Lucius III, in the Constitution *In Eminenti*, in the year 1185: "Therefore, Bishop Conrad, the Church of St. Peter, which you are deemed worthy to govern, we take under the protection of St. Peter, according to the example of Eugene III." These Bulls are cited by Ughelli in his most celebrated work, *Italia Sacra*, in which, also in the year 1232, it is read: "Bishop Titus de Vidoro confirms the institution of the Mansionaries in the cathedral." However, it is noted that the legal principle is that the subordination of the Chapter and the exclusion of its exemption arise from the act of the Bishop confirming the institutions and elections, Piton, *Disputationes*, 24, no. 42.

CONCERNING CHAPTER STATUTES. Furthermore, in the chapter statutes of the year 1432, it was stipulated that the Chapter demonstrated either active or passive exemption; therefore, all the articles of the statutes were subjected to examination, with the exception of those that are commonly found in all Chapters. Therefore, a Brief of Eugene IV, addressed to the Cardinal of Bologna, was issued with these words: "The petition presented by the Reverend Bishop N. contained that, due to the diversity of the statutes of the Church of N., which you are deemed worthy to govern, disputes and scandals might arise among its members."

[*Latin ed. p. 73*]

REGARDING ORDINARY JURISDICTION OR EXEMPTION. In Usküb, it was requested of us that we would deign to provide for the church, and also for the aforementioned persons. We, inclined to grant these requests, by Apostolic letter, command... that those things which are reasonable be approved, while those which are less just and which produce scandals be entirely rejected, annulled, and rendered void. The articles of the statutes, as they had been reformed by the Cardinal of Bologna, by order of the Pope, are as follows. Article I: Those who are negligent in the observance of the choral discipline shall be punished at the discretion of the Dean, or, in his absence, of the senior Canon; likewise, those who are guilty of offenses in the choir. However, it was noted that the Holy Roman Rota, in Dertusen, in the year 1572, declared: "The power granted to the Archpriest in minor matters has no effect in serious matters, of which complete knowledge is due to the Bishop." Even more so, since in Article II, it was stipulated: "And if the Canons themselves are negligent in these matters, they shall be punished by the Vicar of the Lord Bishop." By which, the jurisdiction of the Bishop was not excluded. Article XL: Rectors and Chaplains of churches subject to the Chapter shall attend the examination during the Lenten season. It was observed that such an article was in conformity with

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the sacred canons, chapter *His quae, de Maior, et obed.*, since Rectors of filial churches were summoned to this examination to judge regarding the admission of catechumens to Baptism, whether they were sufficiently instructed in the catechism, etc. In Article XLII: The Rectors of these churches must, with crosses, process solemnly to visit the church of N. on the feast of Saint Liberius. And in Article XIII: The Primicerius and the Chaplain must attend the first vespers and Mass on the day of Saint Peter the Apostle... and also in the voluntary processions which the Lord Bishop of N., or the Chapter, were to organize or carry out; therefore, it was observed that the Bishop was to be summoned to such an invitation, and not the Chapter. In Article XXII: Anyone received into the Canonry, in order to fill a vacant position, must swear and must, in the hands of the Lord Bishop present, or, in his absence, in the hands of the Dean, swear that he will treat the possessions in good faith and will observe the statutes. Therefore, no oath was to be determined concerning exemption, or active [status] without passive [status], but rather, they were obligated to swear before the Bishop. In Article XXIII: Mansionaries and those holding prebends (that is, the lesser clergy) promise to observe reverence and obedience to the Chapter of N. and to observe the statutes, saving in all things the prerogatives of the Lord Bishop.

[*Latin ed. p. 74*]

74. OF ORDINARY JURISDICTION OR EXEMPTION. Scopi N., and by episcopal right. And in Articles XXIII and XXIV. Every Mansionary, Parish Priest, Rector, Clericus in churches subject to the Chapter, shall swear obedience and reverence, and to observe the statutes of the Chapter, and to preserve the goods, saving in all things the right and prerogatives of the Lord Bishop. And in Article XXXIII. No Canon shall absent himself from his residence without the license of the Lord Bishop, and in his absence, of the Dean and the majority of the Chapter. Regarding the aforementioned matters, no donation of fruits can be made to him, and if it has been made, it shall be punished as perjury at the discretion and judgment of the Lord Bishop. Similar provisions follow in the other articles, which we omit for brevity, so that it may be understood that the Chapter possesses considerable power concerning the administration of goods, concerning the election to vacant churches, concerning the care of divine service; nevertheless, the right of the Bishop and episcopal right are always expressly reserved. Thus, as we refer to some other articles; in Article LVII. It is the right of each Canon to choose and present a Rector and Clericus in a church within his portion, as long as it is vacant, and for the Dean to invest him in that position in the name of the Canons, with honor, obedience, jurisdiction, institution, and destitution being reserved, saving in all things the right of the Bishop in visitations, corrections, and punishments, and in episcopal prerogatives: Also: Concerning the distributions of alms and the legacies

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of the deceased, the Chapter itself shall render an account and computation to the Lord Bishop each year. Also: That alienations made of the goods of the church without the authority of the Lord Bishop are, by law itself, null and void, and those who alienate shall be punished at the discretion of the Lord Bishop. Also: That two Canons shall be elected each year to visit the possessions of the church and to have them repaired, with the advice of the Lord Bishop; who shall also strive to revoke harmful alienations, and to have the canonical houses repaired; but in all things, the Lord Bishop shall be consulted, and his consent awaited. And this article is indeed worthy of special consideration, because from it it is clear that the visitation of the Canons concerns temporal goods and possessions; and is not a pastoral visitation, as the Chapter was claiming in the present case. Finally, the observance of the statutes (with the preceding provisions given) with the power to interpret and declare, was reserved to the Bishop in those same statutes.

[*Latin ed. p. 75*]

JURISDICTION OF ORDINARY OR EXEMPTION. 75 Having explained these and other matters, to which this chapter referred, and having considered all of these things under a single perspective, it was demonstrated that all of these things clearly indicated the right of maternity and superiority of the Chapter over the lower clergy to whom it presided, as in other Chapters, according to chapters *Maior* and *Obed.*, and specifically in Rome until the Constitution of Leo XII, it did not possess ordinary jurisdiction, which is proper to the Bishop, or, by privilege, to an Abbot Nullius who has a proper and separate territory; Benedict XIV, Constitutiones Causarum: indeed, not even passive exemption, Benedict XIV, Constitution Apostolicae §. 16. Concerning the manner of providing for persons when Benefices are vacant, I noted that, according to the Statutes, in the sole case of option and nomination, the Dean had given the investiture or provision. However, this might be referred to the act of admitting to possession, but not to the act of institution, which is authorizable and collative, or to the act of issuing Bulls and a mandate for admission, Piton, Disputationes Eccles. 25 n. 1 et o; nevertheless, the Bishop invokes the Tridentine right, and the subsequent Constitution *Pastoralis* of Benedict XIII; and the Constitution of Benedict XIV, in which an examination is prescribed for both the care of souls and the collation of a Theological and Penitential Prebend in Italy, and the judgment of the Bishop is required (1). And in matters pertaining to the care of souls, neither are the Exempted free from the power of the Bishop concerning the suitability of the elected. And concerning this matter, Piton, in the aforementioned place, n. 10, states: "Institution must be reserved to the Bishop and not to another inferior, notwithstanding," contrary to the law of the foundation, if it is made after the Council of Trent. "But if the foundation was made before the Council, the law of the

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founder," reserving the right of institution to the Chapter, "although contrary to the Council," "must be interpreted in a lawful manner, namely, that the institution pertains to the Bishop with the consent of the Chapter, or by simultaneous institution." These indeed seemed to apply even more in the present case, because of the words: *salvo iure Episcopi*. If, therefore, some exemption favorable to the Chapter existed according to the statutes, it followed that the Bishop, for almost two centuries and a half, should have reformed the statutes according to the norm of the Council of Trent, session 24, canon 14. If this was not done in its time, then (1) It happened that these Constitutions were discussed in Fol. II, pages 69, 75, 211, 122, 573.

[*Latin ed. p. 76*]

76 OF ORDINARY JURISDICTION OR EXEMPTION. However, the Bishop lost the right to reform [the monastery], when the decrees of the Council were declared invalid, according to what Pitonius states in *Disputationes Ecclesiasticae*, 112, n. 28. If, however, the monastery were considered exempt, the Bishop would have been obliged to remove all abuses from those who had entered it, so that the statutes could be reformed by Apostolic authority, as had been done previously.

CONCERNING DIPLOMAS AND MANDATES OF LAY AUTHORITIES. — Indeed, it would have been better for the monastery if it had refrained from mentioning these things, firstly, because it revived certain names that deserved to be consigned to perpetual oblivion, such as, specifically, Henry IV, persecutor of Gregory VII; secondly, because these diplomas do not contain what the monastery intended; and thirdly, because if they did contain anything, those who drafted them must be considered most ignorant of canon law, since they do not know that lay princes lack the power to exercise ecclesiastical jurisdiction, and therefore cannot grant it to others. *Rota coram Molines in Fulden. Iurisdictionis, 16 Februarii 1703, apud de Prosperis, de territ. sep. dec. 20, post tract., n. 20 et 24.*

ON AGREEMENTS BETWEEN THE BISHOP AND THE CHAPTER. — After a certain act of exchange in the year 1312, the Chapter presented a memorandum from the year 1613, drawn up by the Bishop of that time, "that the Canons should elect two from the Chapter, with whose counsel and consent proceedings could be carried out in legal cases, as in session 25, c. 6 of the Council of Trent" (which refers to Chapters that are passively exempt); "otherwise, the Bishop alone will exercise jurisdiction." In the year 1774, the Bishop of that time, at the urging of certain Patrician men, signed a certain agreement that granted certain pastoral rights to the Chapter; especially concerning the visitation and the exemption of the Seminary; and among the articles of the agreement was this: "The Rectors of the Chapter's parishes, presented to the Bishop, shall receive from him only a document of examination." The Chapter showed itself grateful to

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the Bishop. In the year 1789, in order to achieve peace with the Chapter, the Bishop agreed that "those elected to benefices of the cathedral, and those promoted to the Canonry, should obtain from the Bishop a document of presentation; and that the Canon elected, with two Canons present, should present his act of reverence to the Bishop; and that whenever he requested dispensation from residence from the Holy See..."

[*Latin ed. p. 77*]

ORDINARY JURISDICTION OR EXEMPTION. 77 "Due to a lack of age, the episcopal curia would not admit petitions without the knowledge of the Chapter." Finally, in the year 1844, the Bishop approved that the Chapter grant authorization for the endowments of the churches of the dependencies, "due to rights and privileges, and also to a prescription of more than a hundred years, and that nothing be changed, and therefore, the Bishop should only give a testimonial of suitability to those elected by the Chapter, granting the authorization from the Chapter." From these things, the Chapter inferred that there existed a passive exemption, and also a certain partial active exemption, namely, due to rights, privileges, and prescription: for no greater proof is given than the confession from one's own mouth. However, although from such episcopal acts, if they were legitimate, the Chapter might derive a passive exemption, it was nevertheless noted that the adduced titles, rights, privileges, and prescription did not actually exist, so that they are indeed mentioned, but without being substantiated. For before the year 1013, no act was adduced that demonstrated either an active or a passive exemption. Afterwards, episcopal concordats could not induce an exemption: first, because such concordats, which concern great ecclesiastical rights, cannot subsist without Apostolic approval, *Extravagantes* concerning things of the Church that should not be alienated; secondly, because Bishops cannot impose a prejudice upon their successors, who succeed to the jurisdiction by their own right. See *text. cap. Quisquis Episcopus*; *cap. Non liceat Episcopis*, q. 2, where it is expressly written: "The Bishop cannot alienate the things and rights of his Church"; *Fargna, can. 27, cas. 4, n. 3*. The Holy Roman Rota, in the *Hispalensis Visitation*, April 30, 1700, *cor. Molines, n. 34*, where it is written: "Moreover, it is reported that the use of the cathedral of Caesaraugusta prevailed, which arose from a special agreement entered into between the canons and the Archbishop, to whom, if he pleased to renounce his right, he imposed a prejudice only upon himself, and such examples are inappropriately cited in the hypothesis in which the Archdeacon seeks to preserve his own prerogatives intact, according to the judgment of the sacred canons, of which he is the guardian." See *Cap. Cum quibus caus. 36, p. 3*, and it is not permissible to act against the canons. And indeed, if it were permissible for Bishops to renounce their episcopal rights, the hierarchical constitution of the Church could easily be perverted: therefore, Pitonius, *disputatio 37,

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n. 3*, rightly observes: "Episcopal rights..."

[*Latin ed. p. 78*]

78 OF ORDINARY JURISDICTION OR EXEMPTION. "These are the perpetual laws and common law provisions of the canons, to which it is not permitted to contradict. Therefore, it is an undoubted principle that exemptions cannot be acquired except by Apostolic Privilege, or by the force of immemorial custom; Benedict XIV, Apostolic Constitution, and *Petra*, cited above. REGARDING PRESCRIPTIVE CUSTOM. — There has been a very lengthy discussion regarding prescription; we will be content to indicate the principal points, especially those concerning the rules of law. Since, in the first place, the discussion concerned active exemption, that is, full ordinary jurisdiction over the clergy and people, which is appropriate to a separate territory, it was shown that an immemorial custom was necessary for prescription; forty years is not sufficient; for it was decided in a particular congregation appointed by Clement XI, who approved the same decision and ordered it to be perpetually observed, *Petra*, section 2, to the Constitution of Callixtus III; Pitonius, who also recounts the history, *Disputationes Ecclesiasticae*, 112, at the end, after number 57/Benedict XIV, in the Apostolic Constitution of March 14, 1743, § 3 (1). Furthermore, I note that the question cannot be raised in the present context regarding interpretative observance; for this observance, which proceeds from declaring a privilege, presupposes the privilege itself, and indeed a valid and sufficient one for having a separate territory, so that the foundation of the acquired jurisdiction is said to consist in the Apostolic title, in which case the jurisdiction is not derived from possession, but from the explained and declared privilege by means of observance, Pitonius, *Disputationes Ecclesiasticae*, 112 (i). Benedict XIV, in the Apostolic Constitution concerning the service of March 14, 1743, § 3, wrote: "We, acting in the office of Secretary of the Holy Congregation, have examined the arguments for both sides in the written treatise. In order that every future reason for judgment might be anticipated, a particular congregation, with reasoned arguments, rejected the opinions presented, coloring them with a false hue as if they were canonical sanctions, and lacking the support of law, and decreed that only an express Apostolic privilege or an immemorial custom legitimately proven could support the ordinary jurisdiction of the inferior prelate in any part of the diocese; and Clement XI approved this decree on January 3, 1721, indeed, included it among the Apostolic Constitutions, and ordered it to be perpetually preserved in print." Pitonius, cited above, recounts the entire decree.

[*Latin ed. p. 79*]

JURISDICTIONIS ORDINARIAE VEL EXEMPTIONIS. 79 n. 3. Tamen, in praesentia eiusmodi privilegii Apostolicum, hoc non habetur validum et

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sufficiens ad constituendum territorium separatum. Quoad exemptionem passivam, etiam cum aliqua exemptione activa, qua gaudent Abbates seu Praelati secundae speciei, haec locum habere posse ostendebatur ex praescriptione quadragenaria, quae sequentes habeat characteres: nempe Prescribentem in iugi existimatione versari se habendi iustum titulum: eiusmodi titulum, quamvis putativum seu coloratura, esse debere Apostolicum: possessionem esse debere tempore completam, actibus uniformem, constantem, ita ut ea interrupta censeatur per unum actum etiam extraiudicialem, quia Episcopus habet sui favore iuris assistentiam: vigente legitima hac praescriptione tantum censeri praescriptum, quantum possessum; *Petra*, loc. cit., n. 13. *Rota* apud *de Prosperis de territ. separ.*, dec. 28 post tr., *Rota cor. Ansaldo in Nullius, seu Tulden*, die 1 Iunii 1708. Haec principia ad facta dein applicabantur, adducta utrinque prolixa serie particularium et discrepantium factorum, quae molestiam crearent Lectori si inferrentur; et ad primum caput quod spectat circa activam exemptionem, Capitulum nullimode ostendebat immemorabilem consuetudinem, quae ea dicitur, cuius non extat memoria nec rumor nec fumus in contrarium. Ad rem, *Benedictus XIV.* in *Constit. Inter multa*, « Cum sit de essentia immemorabilis, ut nihil contra eam auditum unquam fuerit, vel factum; contra vero satis constet interruptio per alios actus intra territorium Cryptae ferratae ab Episcopis Tuscidanis exercitos, non modo exclusa remanet, quin potius favore Episcopi, qui pro se habet assistentiam iuris, ea regula suffragatio, quod unus actus dumtaxat ab ipso exercitus, totam ipsius ordinariam iurisdictionem praeservat integram. » Prolixior autem fuit disceptatio de praescriptione circa passivam exemptionem. Contendebat enim Capitulum sui favore militare consuetudinem immemorabilem, aut saltem quadragenariam quae ad praescribendum in re de qua agimus sufficiens censetur, uti sensit *S. C. C. in Clusind 1705 apud Pitonium, discept. 112, n. 21* et ex superius adductis. Titulum autem huius praescriptionis petebat tum ex Apostolicis Litteris, tum ex Principum civilium decretis, tum ex...

[*Latin ed. p. 80*]

80 OF ORDINARY JURISDICTION OR EXEMPTION. In the episcopal conventions, it was stipulated that if the Chapter was not to be considered as enjoying full active exemption, as do Abbots Nullius who have a separate territory, it should nevertheless enjoy a passive exemption of the second kind, with some active exemption, or at least of the third kind, with only passive exemption, from the jurisdiction of the Bishop. However, concerning such titles, the Bishop observed that previous Pontifical Bulls had been enacted in the years 14-32, by which an Apostolic Delegate had declared invalid all that had preceded them; and that in those same enactments, the episcopal rights had been preserved, intact and secure; therefore, the Apostolic Bulls could not present a valid title for establishing a prescrip-

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tion, and, with the authority of the Bishop preserved, good faith ceased in the Chapter; moreover, in Article LXXIX of the statutes, it is prescribed: "That (the statutes) be read aloud in the first week of Lent in each year." Regarding this, Pitonius, in a similar case, *Discept. Eccles.* 61, n. 39, writes: "An unavoidable response arises, that the prescription could never have been introduced against the aforementioned constitutions, since each year they were read and renewed in the annual Chapter, and this reading always interrupts the customary proceedings for the Chapter, so that, with this annual interruption, the prescription could never have begun, as in the terms of reading in the Synod; *Gloss. magistral, in Cap. Sanctorum de Praescript.* and in the terms of the annual reading of the Bull of the Last Supper, Felin, Pignatel, Lotterius." Furthermore, it is proven that such constitutions were read in the annual Chapter from the constitutions themselves, in which Benedict XIII ordered that they should be read each year; in which case, with this constitution in force, the reading is presumed to have always taken place... Therefore, it could never have been prescribed, neither through an unimpeachable and centennial prescription, even though these are destroyed through bad faith, according to the common opinion of the canonists. These were confirmed by the continuous troubles and controversies that led the Bishops to sign agreements. But furthermore, the Bishop argued that the forty-year prescription was also lacking in the present case, not only because of the absence of an Apostolic title, since the Chapter was acting in bad faith, but also because of the interruption of possession. For no Bishop held the governance of that church for a period of 40 years.

[*Latin ed. p. 81*]

JURISDICTION OF ORDINARY POWER OR EXEMPTION. 81. Therefore, the possession of the see was interrupted by the election of a new Bishop, since these [Canons] come by their own right and are not bound by agreements of their predecessors, in which matter the incapacity of the law is resisted; and therefore, in every new election of a Bishop, the jurisdiction is renewed. The Rota decided in number 33, page 2, of the *Recueil*, as reported by De Luca and Albitius, in *Tractatus de Iurisdictione*, question 5, section final. This was confirmed by the very enumeration of individual acts drawn up by the Chapter, from the year 1190 to the year 1849, from which it appeared that a certain mixture of jurisdictions had intervened in this series of acts: episcopal, capitular, and civil. Thus, the Bishop concluded that, at the time of the publication of the Council of Trent, the Chapter had not presented any fact that would prove, to the exclusion of the Bishop, the exercise and possession of the rights which it now claimed; but after Trent, the Chapter could not prescribe, in opposition to the Council, according to what Pitonius states in *Disputationes*, number 112, number 28, *loco citato*. Even more so, since those things which are derived from the authority of the Order, such as obedience and reverence due to the

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Bishop, are not subject to prescription, as Benedict XIV wrote in his work on synods, book 5, chapter 8, number 7, where he wrote: "Among the episcopal rights, some are so proper to their nature that they cannot be lost even by contrary prescription." As we were saying, no one can ever prescribe against the subjection, obedience, and reverence due to the Bishop. Also, Barbosa, in *De Officio et Potestate Episcopi*, throughout. And it is well known in this matter the decree of Innocent III on prescription, which is interpreted by Gonzalez. Indeed, obedience and subjection to the Bishop cannot be prescribed directly, not by disobeying, but indirectly, namely, by obeying another superior, by which subjects are excused from the prior superior by just title and prescription. For disobedience cannot be a title for prescription. And if all those things which had been presented and discussed were not deemed sufficient to exclude the Chapter's exemption, the Bishop requested that the privileges be revoked, as stated by Cardinal De Luca in his *Dissemina de Iurisdictione*: "Because of the inconveniences and occasions of scandal, such suppression of privileges will be demanded everywhere in the dioceses, as was the opinion of the Cardinals," volume Uljasc. XXVI, 6.

[*Latin ed. p. 82*]

82. CONCERNING ORDINARY JURISDICTION OR EXEMPTION. "Regarding the matter discussed by the Most Holy Congregation of Councils, concerning the cause of Mutina, or of the Nullius Carpen district." "Benedict XIV, from the first book of decrees, chapter 13, paragraph 8." These and other matters, which have been extensively debated, are the subjects of the following questions which the Most Holy Congregation has undertaken to resolve. Questions:

I. Does it clearly follow from the law that the Reverend Bishop has rightful jurisdiction over all churches, places, and persons of the Chapter within the city and diocese, in all matters, including the case in question, etc., and to what extent? And to what extent is this affirmative?

II. Does it clearly follow, and in what manner, that the Apostolic Letters, with the included statutes, are to be approved in the case in question, etc.? And to what extent is this negative, both with respect to I and with respect to III and IV?

III. Does it clearly follow that the Chapter possesses an active exemption, or ordinary jurisdiction with a separate territory, concerning the Cathedral and the churches, properties, places, and persons dependent upon it, in the case in question, etc.? And to what extent is this affirmative?

IV. Does it clearly follow, and in what manner, that the statutes established by the Chapter in the year 1854, in the case in question, etc., are to be approved or reformed? And to what extent is this negative, both with respect to II, III, and IV?

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V. Does it clearly follow that the Chapter possesses a passive exemption from the ordinary jurisdiction of the Bishop, in the case in question, etc.? And to what extent is this affirmative?

VI. Does the visitation of the Cathedral and its dependent churches, with or without a cure of souls, and with regard to the places, persons, and pious endowments, pertain to the Bishop, or to the Chapter, in the case in question, etc.?

VII. Does this right of visitation belong exclusively, or cumulatively, or subjectively, in the case in question, etc.?

VIII. To whom does the right belong to institute individuals to canonical offices, and to benefices subject to patronage, and to choral positions without a cure of souls, in the case in question, etc.?

IX. Does the right to examine and institute individuals with a cure of souls pertain to the Bishop, or to the Chapter, in the case in question, etc.?

X. Does the permission to be absent from residence pertain to the Bishop, or to the Chapter, in the case of parish priests and vicars, in the case in question, etc.?

[*Latin ed. p. 83*]

ORDINARY JURISDICTION OR EXEMPTION. 83 » X I . Does the right to appoint confessors, and to approve those who give sermons, belong to the Bishop, or to the Chapter in the case, etc.? » X I I . Does the right to order processions outside the walls of the Church, public prayers, and those prayers which they call "collects," belong to the Bishop, or to the Chapter in the case, etc.? » XIII. Does the right to hear causes before the ecclesiastical court, whether civil, criminal, or mixed, belong to the Bishop, or to the Chapter, in the case, etc.? » X I V . Do the correction of morals, and the mandates concerning discipline, and ecclesiastical habit, belong to the Bishop, or to the Chapter, in the case, etc.? » X V . Is obedience and submission due to the Bishop from the priests, and the lesser clergy of the cathedral and its dependencies, in the case, etc.? » X V I . Is the diocesan seminary subject in its governance and economy to the jurisdiction of the Bishop, or of the Chapter, in the case, etc.? » XVII. Does the right to grant dispensations from the obligations of the orders freely belong to the Bishop, or to the Chapter, at least with regard to the presentation of the clergy of the cathedral, in the case, etc.? » XVIII. Is the Bishop, when arriving for solemnities, and acting pontifically in the cathedral, to be received with honorable reception and residence by the Chapter, with assistance, and the use of the *baldachin*, in the case, etc.? » X I X . Are the procedures for resolving questions from V to XVII to be reformed and presented by the Chapter to the Holy See for approval of the Capitular Statutes of the year 1432, in the case, etc.? » X X . Are the same Capitular Statutes of the year 1432 to be reformed with regard to the penalties of deprivation of benefices,

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alienations, contracts, and licenses for absence from residence, in the case, etc.? » RESOLUTION. — The Holy Congregation, after mature discussion in the meetings held on November 27, 1856, decided to respond as follows. To I: Affirmative, according to the manner expressed below. To II: This will be provided in XIX. To III: Negative. To IV: This will be provided in XIX. To V: It is to be requested from the Most Holy [See] for the preservation of passive exemption, while observing the moderation prescribed by the decrees of the Council of Trent.

[*Latin ed. p. 84*]

84. REGARDING ORDINARY JURISDICTION OR EXEMPTION. Regarding VI: With respect to the care of souls, the power pertains exclusively to the Bishop; regarding other matters, it pertains to both. Regarding VII: It pertains to both cumulatively, but separately according to the form of chapter III of session XXIV of the Council of Trent (1). Regarding VIII: It pertains to the Chapter if the matter concerns prebends and benefices established before the Council of Trent. Regarding IX: It pertains to the Bishop. Regarding X: It pertains to the Bishop. Regarding XI: It pertains to the Bishop. Regarding XII: It pertains to the Bishop, but without introducing any change regarding the processions of the rectors of filial churches to visit the cathedral church. Regarding XIII: With respect to civil causes falling within the jurisdiction of the ecclesiastical forum, the power pertains exclusively to the Bishop, according to chapter XX of session XXIV concerning reforms. With respect to criminal causes, the power pertains to the Bishop, according to session XXV, chapter VI concerning reforms, chapter IV, session VI concerning reforms, with the exception of any modifications established by the most recent concordat. Regarding XIV: It pertains to the Bishop. Regarding XV: Affirmative. Regarding XVI: Affirmative, with the favor of the Bishop, according to the Council of Trent, but with the preservation of the commendable custom of the intervention of the clergy of the seminary on designated days at the cathedral church. Regarding XVII: It pertains to the Bishop. Regarding XVIII: Affirmative, according to the decree of Clement VIII. Regarding XIX: Affirmative. Regarding XX: Affirmative.

(1) In the aforementioned chapter 3 of session 24 concerning reforms, the following is read: "Archdeacons, deacons, and others of lower rank, in those churches where they have hitherto legitimately been accustomed to exercise visitation, ought, having taken a notary with the consent of the Bishop, henceforth to visit only there themselves; and visitors appointed by the Chapter, where the Chapter has the right to visit, must first be approved by the Bishop; but for this reason, the Bishop, or the visitor appointed by him, should not be prohibited from visiting those same churches separately from those to whom the visitation has been entrusted; and those Archdeacons or others of lower rank to whom the visitation has been entrusted must

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render an account to him within a month, and exhibit to him depositions of witnesses and complete records; notwithstanding any custom, even one long forgotten, and any exemptions and privileges whatsoever."

[*Latin ed. p. 85*]

JURISDICTION OF ORDINARY NATURE OR OF EXEMPTION. 85. FROM THESE, IT MAY BE GATHERED, AMONG OTHER THINGS, THAT: Concerning exemptions against the jurisdiction of the Bishop, the general principles of law which govern such causes are as follows: He who claims an exemption must prove it. 2. This exemption is of three kinds: one is that of Abbots or Prelates inferior to the Bishop, who are said to be of "Nullius Dioecesis," having their own territory, and who, except for the authority of their order, have ordinary jurisdiction over the clergy and people. 3. The second kind are those inferior Prelates who, although located within the territory of a Bishop, are nevertheless exempt from the Bishop, and who, furthermore, exercise some jurisdiction over their own clergy or people. 4. The third kind are those who simply enjoy some exemption from the Bishop's jurisdiction, but have no jurisdiction over the clergy or people. 5. This exemption of the three kinds can be demonstrated in two ways: either by an Apostolic privilege, or by custom or prescription. 6. An exemption of the first kind, if there is no express Apostolic privilege, can only be demonstrated by an immemorial custom duly proven, which, by its very nature, implies an Apostolic privilege, and is equivalent to it. 7. For demonstrating an exemption of the second and third kinds, a prescription of forty years duly proven is considered sufficient, although it is colored by an Apostolic privilege. 8. Where there exists a tranquil, immemorial custom or a constant prescription of forty years, only that right is acquired or prescribed, as far as it has been possessed. 9. In the present case, Apostolic privileges, although insufficient in themselves to demonstrate an exemption, may nevertheless have provided a colorable title for prescription. 10. The very Capitular Statutes have shown the indications of this prescription, although in many respects they have been repealed by the same, by the Holy Council of Trent, or by subsequent Pontifical Constitutions.

[*Latin ed. p. 86*]

86. OF ORDINARY JURISDICTION OR EXEMPTION. XI. Bishops have, in some way, acknowledged this prescription through agreements (1). XII. Therefore, the Holy Congregation finds passive exemption in the Chapter, but it must be directed according to the norms of Trent (2). XIII. Furthermore, you gather that, although before the Council of Trent, the canonical institution in Benefices could pertain to someone other than the Ordinary, after Trent, the institution is reserved to the Ordinary (3). XIV. This Tridentine disposition should be understood in such a way that those who

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enjoyed the right to institute in Benefices established before the Council are not considered to be deprived of this right in them. XV. However, private individuals are considered to have this right if it concerns an institute authorized in Benefices for the care of souls; nor in the Praebendae Theologica and Poenitentialia, according to the Constitution of Benedict XIII for Italy. (1) Although agreements not confirmed by the Apostolic See do not have legal value and do not bind successors, they could nevertheless be cited in the present case as some argument to prove the fact of prescription. (2) Cf. c. 4, sess. 6, and cap. 6, sess. 25, de Ref., as well as c. 3, sess. 14, de Ref. (3) The Council of Trent, sess. 24, cap. 12, de Reform, decreed: "In the case of the foundation or endowment of such an institute, the institution shall be reserved to the Bishop, and not to another inferior." Therefore, in Benefices established after Trent, the right to institute cannot be reserved by the Founders in favor of any inferior Bishop; and if such a reservation were made, it would be considered as not having been made.

[*Latin ed. p. 87*]

87 FROM THE MINUTES OF THE COUNCIL, THE LETTER OF THE CARDINAL PREFECT OF THE SACRED CONGREGATION OF THE HOLY SEE, ADDRESSED TO THE BISHOPS WHO CONVENED IN ROME, ISSUED BY ORDER OF THE MOST HOLY LORD, IN WHICH A SYLLABUS OF CERTAIN QUESTIONS IS PRESENTED TO THEM. PREFACE. First of all, ambiguities must be removed that have arisen in certain publications, especially those from beyond the Alps, concerning the following documents. For they have imagined that the following questions were proposed so that a future ecumenical synod (which will be announced in due time) should deliberate upon them. Those who have thought such things have not understood that these questions were proposed to the Bishops who convened in Rome, at a time when neither the beginning nor the slightest preparation had been made for the holding of an ecumenical synod. Perhaps in that synod, among other matters, such questions or related ones may arise to be discussed; but the Spirit of the Lord, in the assembled universal Catholic Church, under the living successor of the blessed Apostle Peter, will suggest what should be discussed, what should be defined, and what should be determined, although necessary preparations must be made. Therefore, the following syllabus of those questions, which are often discussed and trouble the minds of the sacred prelates, was presented to the Bishops who convened in Rome, so that each one might reveal what they think, and that the evils which afflict their dioceses might be made known, and remedies suggested. Most Illustrious and Reverend Lord, on June 6, 1867. "Since Our Most Holy Lord Pope Pius IX, in the highest glory of his Apostolic ministry, has been given by God as a light to the house of Israel, therefore, if any opportunity presents itself whereby the true happiness of the Christian people may

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be promoted, or the evils inflicted upon it may be recognized, or even perhaps only foreseen, He seizes and embraces it without delay, so that by divine providence and..."

[*Latin ed. p. 88*]

88 LETTER. "Let him devote the entirety of his efforts to this matter, or let him diligently employ more suitable remedies." Indeed, considering the severity of the times and circumstances, he judges that this has been granted to him by a singular benefit of God, that in the upcoming festive celebration of the centennial commemoration of the glorious martyrdom of the Holy Apostles Peter and Paul, and the canonization of so many heroes of the Christian religion, the Most Eminent and most beautiful [pontiff] will bestow a crown upon his throne, and not only the Cardinals of the Holy Roman Church, but also Bishops from all parts of the world, will be present, and he intends to wisely make use of their presence and their works. He has ordered that certain questions concerning the more important aspects of ecclesiastical discipline be proposed to the Bishops present in Rome, so that, having become more certain of their true state, he may, in due time, decide what he judges to be expedient in the Lord." What are these aspects of discipline, concerning which, by order of His Holiness, this Holy Congregation is now inquiring from Your Eminence, regarding your Diocese, are clearly set forth in the syllabus of questions which is appended here. If, however, anything else should perhaps seem to be an abuse, or involve a serious difficulty in the execution of the sacred canons, it will be entirely proper for you to explain and declare it: for the Apostolic See, having carefully considered the matter, will certainly not delay in providing assistance and remedies, as the circumstances and the times require.)) In order that Your Eminence may not lack a suitable amount of time to complete this report, a period of three or four months, if necessary, is granted from the date of these letters. Furthermore, you will take care to send the same report to His Holiness himself, or to this Holy Congregation. "In the meantime, I confess from the bottom of my heart the feelings of my mind to Your Eminence, to whom I pray for every good and salutary thing from the Lord." To Your Eminence. Given in Rome, from the Sacred Congregation of Councils, on the 6th of June, 1867. As a Brother, P. Card. CATERINI, Prefect. PETRUS Archbishop of Sardes, Pro-Secretary.

[*Latin ed. p. 89*]

LETTER. 89 QUESTIONS which are proposed to Bishops by the Apostolic See.

1. "Whether the canonical prescriptions, by which it is entirely forbidden that heretics or schismatics should perform the office of sponsor in the administration of baptism, are accurately observed?"

2. "By what form and with what precautions is the freedom of state for

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contracting marriages proven? And whether the judgment concerning the freedom of state of each contracting party should itself be reserved to the Bishop or his episcopal court?" What, therefore, would it be advisable to reaffirm on this matter, having in view the instruction of August 21, 1670, promulgated by the authority of Clement X?

3. "What remedies could be employed to prevent evils arising from what is called a civil marriage?"

4. "In many places, where heresies openly flourish, mixed marriages are sometimes permitted by dispensation from the Supreme Pontiff, under the express condition of preliminary and suitable precautions, especially those which are required by natural and divine law in these marriages. It is certainly permissible to doubt that the local Ordinaries diligently dissuade and deter from such marriages, and that, if serious reasons are present, in exercising the apostolic faculty of dispensing from the impediment of mixed religion, they diligently and carefully watch over, so that the aforementioned conditions are, as is fitting, safely observed. But, indeed, after they have been promised, they are certainly observed diligently, and by what means could it be prevented that anyone should rashly disregard the given precautions?"

5. "How is it to be ensured that in the preaching of the Word of God, sacred sermons always possess such gravity, that they remain immune from every spirit of vanity and novelty, and that likewise, every doctrine which is transmitted to the faithful, is contained in the Word of God itself, and therefore is drawn from Scripture and traditions, as is fitting?"

6. "It is most deplorable that popular schools, which are open to all classes of children from the people, and public institutions, which are intended for the instruction in more serious disciplines and for the care of the education of youth, are lacking in many places."

[*Latin ed. p. 90*]

90. LETTER. In those places where the authority of the Church, through its power and influence, is fully subject to the will and judgment of civil and political authorities, and to the prevailing opinions of the age, what remedy could be devised that would provide a suitable means of assistance, and would support the faithful with the aid of Catholic instruction and education?

7. It is of the utmost importance that young clerics be properly instructed in the humanities and in stricter disciplines. Therefore, what could be prescribed that would be most suitable for fostering the formation of the clergy, especially so that the study of the Latin language, of rational philosophy, free from all danger of error, and of sound theology and canon law, may flourish particularly in diocesan seminaries?

8. By what means could clerics, especially those initiated into the priest-

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hood, be encouraged to continue diligently in theological and canonical studies after completing their academic course? Furthermore, what should be established and accomplished so that those who have already been promoted to the sacred orders, endowed with superior intellect, and who have excelled in the stages of philosophy and theology, may be further cultivated in all divine and sacred disciplines, and especially in the knowledge of the sacred Scriptures, the writings of the Saints, ecclesiastical history, and sacred law?

9. According to what is prescribed by the Council of Trent, session 23, chapter 16, concerning reform, anyone who is ordained should be assigned to the Church or to a pious institution, for whose needs or benefit he is taken, where he may perform his duties, and not wander about in uncertain places; and if he leaves his assigned place without the consent of the Bishop, he is forbidden to exercise the sacred ministry. These prescriptions are neither fully nor everywhere observed. Therefore, how should these prescriptions be supplemented, and what could be established so that clerics may continuously render service to their own diocese, and may show reverence and obedience to their own Bishop?

10. Many congregations and institutions of men and women have arisen, and are arising daily, who, bound by simple vows, dedicate themselves to the performance of pious works. Is it more expedient to expand and increase the approved congregations of the Apostolic See, rather than to establish new ones that have a similar purpose?

[*Latin ed. p. 91*]

LETTER. 91. "Whether, when the episcopal see is vacant due to the death, resignation, or translation of the bishop, the chapter of the cathedral church enjoys full freedom in choosing a vicar capitular?

12. "By what form is the process indicated and carried out, which must be followed in the provision of parochial churches, according to the decree of the Council of Trent, session 24 on reform, chapter 18, and the constitution of the Most Holy Pope Benedict XIV, which was issued on December 14, 1742, beginning with 'Cum illud'?

13. "How might the number of causes be increased in which parish priests can be lawfully deprived of their churches? And also, how might a more lenient procedure be established, by which such deprivations can more easily be brought about, while preserving justice?

14. "How is the execution carried out of what is decreed by the Council of Trent, chapter 1, session 14 on reform, concerning suspensions based on informed conscience, commonly called 'suspensions ex informata conscientia'? And is there anything to be noted concerning the meaning and application of this decree?

15. "In what manner do bishops exercise their judicial power in examin-

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ing ecclesiastical causes, especially matrimonial cases, and by what procedure and method of introducing appeals do they proceed?

16. "What evils arise from domestic service provided by Catholics to families by persons who are excommunicated, heretics, or even unbaptized? And what remedy could be appropriately applied to these evils?

17. "What should be noted concerning sacred cemeteries? What abuses have occurred in this matter, and how could they be removed?"

[*Latin ed. p. 92*]

92. CELEBRATION OF THE MASSES. February 16, 1867. Summary of the facts. The testamentary executor of a certain noble woman established three chaplaincies in the church of St. Charles in the city of N. He granted the right to appoint chaplains to the parish priest, together with the wardens of the fabric of the same church. Among the other stipulations imposed upon the chaplains, the following are found: "The chaplain who does not reside in the city of N. nor celebrate Mass in the aforementioned church, shall, by that very act, lose possession of the chaplaincy, and another may be appointed. Each chaplain shall be obligated to celebrate Mass on feast days at the hour which is most pleasing to the parish priest. They shall assist the parish priest in all matters which he deems appropriate, and therefore, chaplains shall be appointed who are suitable for hearing sacramental confessions and for preaching, etc. Any doubt or question which may arise over time, as well as any statute or regulation deemed more beneficial by the parish priest for the time being, shall always be done with the favor of the chaplaincies, with a recommendation made to the parish priests so that they may strive to increase the endowment of the pious cause..." According to these norms and obligations, the chaplaincies were established, and the chaplains performed their duties with the prior parish priest. However, the successor parish priest, because of certain abuses that may have occurred, issued certain other provisions in the year 1852, among which the following articles are found: "The chaplains are obligated to celebrate Masses, whether on feast days or on weekdays, in the church of St. Charles. The Mass which is celebrated at the tenth hour, and at the eleventh hour, shall be celebrated alternately by two chaplains, with the obligation to substitute for each other if one is detained by illness, and they shall not have the right to the increase of alms which is usually given to those who celebrate at those hours." Then, one of the chaplains, considering that the judgment of the parish priests was not so indefinite that it could not be limited by certain boundaries established by the law of the foundation, presented complaints to the episcopal court regarding the imposed burden of celebrating at specific hours. However, when the court, after considering

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the matter, decided in favor of charity and obedience,

[*Latin ed. p. 93*]

CELEBRATION OF THE MASSES. 93. Obligations to be observed! The Chaplain presented complaints before the Sacred Congregation of the Council, and added two other questions to this matter: namely, whether, if not legitimately impeded, he was obligated to celebrate Mass daily in the church of St. Charles; and whether he, being suitable, was required to present to the Ordinary an approval for hearing sacramental confessions and for exercising the office of preaching for the necessity of the parish.

A summary of the discussion.

THOSE ARGUMENTS WHICH FAVORED THE CHAPLAIN REGARDING THE FIRST QUESTION. It seemed to be the principle of law that the obligations of benefices are to be determined according to the laws of their foundation, so that it is not permitted to change these same laws for the better; but since, in the present case, the law of the foundation did not determine the hours for celebrating Mass, it did not seem that the same obligation could be imposed to celebrate at fixed hours to the detriment of the freedom in which the founder had left the Chaplains. And indeed, it was a question of servitude, about which, although the Authors have disputed whether it could be imposed by the Bishops themselves, the opinion prevailed that the local Ordinaries could not impose this servitude on the Chaplains when it had not been imposed by the law of the foundation; and this opinion was accepted by the Sacred Congregation of the Council, as can be seen in another case of this kind, which we cited in Vol. II of these chronicles, page 297 (1). However, it was noted in the law of the foundation that the Chaplain was to celebrate weekday Masses at the discretion of the Parish Priest. For what the testator wished to be done, he expressed through the Executor; what he did not express, he did not wish, and he left it to the discretion of the Chaplains.

(i) This question is specifically treated by Pignatelli, t. 9, Consol. III, and it is noteworthy that distinction which he presents at www. Í4. "I confess indeed, that the Bishop, for those days on which Masses are freely celebrated according to the intention of the founder, can establish a certain time, a certain hour, so that by such celebration, the service of the Church is not impeded, or disturbed, and to provide that they are not celebrated at a time or hour forbidden by the universal rite and custom of the Church. Then the Church acts to avoid a damage that could not have been prevented by the institution of the celebration of Masses. / Not ff. de Reg. iur... But I deny that the Bishop can, by his ordinances, increase the benefit of the Church itself, to the prejudice of said freedom, which is rightfully due to the Rector. For the Church in this case acts to obtain a greater benefit for itself, which

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should not be done at the expense of another..."

[*Latin ed. p. 94*]

94. CELEBRATION OF MASSES. Although the executor of the parish has the authority to resolve questions, he has not, however, conferred upon them the power to impose new obligations; rather, this decision has been made for the benefit of the parish, in order to increase its revenues and improve the condition of the chaplains. Even if it were doubtful whether the parish's decision could be justified under the law of the foundation concerning the matter at hand, it should be judged in favor of the parish: for the chaplains are concerned with avoiding harm, while the parish is concerned with obtaining profit; in such a case, freedom should be favored, as argued in I. 41 ff. on the subject of "Reg. iur." §. 1, where it is written: "In matters of doubt, it is better to favor repetition than to seek an additional profit"; also in I. 9 ff. of this work: "In obscure cases, we always follow what is the least." Moreover, since the chaplains celebrated Mass before the tenth hour, in accordance with the statute for a foreign priest who would offer the sacrifice at a later hour with an increase in alms, THOSE THINGS THAT FAVORED THE PARISH. — In opposition to this, the parish priest used two arguments to defend his rights: firstly, he asserted that the nature of the chaplaincies, according to the terms of the foundation, was purely mercenary; therefore, it was unfair for the chaplain to present arguments that could benefit chaplains who properly and permanently hold their chaplaincies. He demonstrated this by the fact that no decree of the Ordinary was involved in their establishment, which would have been necessary for them to acquire the nature of a benefice, as stated by Ferraris in "Bibl." v. "Beneficium"; nor was a canonical institution of chaplains made, since they are simply nominated by the parish priest together with the officials of the church fabric to perform the duties of a chaplain: therefore, he concluded that they were entirely dependent on the parish priest, as expressly stated in the law of the foundation itself. Secondly, the parish priest insisted on the authority granted to him by the law of the foundation to resolve any doubt, as well as to establish any statute or regulation that would be more beneficial to the pious cause: hence, he pointed out that he had the authority to regulate the functions and celebration of Masses for the benefit of the church and the faithful. He rejected the restriction that the chaplain sought to impose, against which both the letters of the Ordinary and the...

[*Latin ed. p. 95*]

CELEBRATION OF MASSES. 95 He considered the arrangements made by the predecessor, the parish priest, in the year 1852 to be sufficient. REGARDING THE SECOND DOUBT. — After these matters, certain observations were made concerning other doubts. Regarding, namely, the second doubt, after having read the articles of the foundation, and having con-

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sidered the arrangements of the parish priest of the year 1852, and with constant observance, the second doubt seemed to be dismissed with an affirmative answer. REGARDING THE THIRD DOUBT. — In favor of an affirmative answer to the third doubt, besides other legal sanctions, the Council of Trent, session 23, chapter 15, concerning Reforms, and session 5, chapter concerning Reforms, were cited. "I. Can the Chaplain (N.) be compelled to celebrate Masses at the hours determined by the parish priest on weekdays in the church of San Carlos in this case? " "II. Can the same Chaplain, unless legitimately hindered, be obliged to perform the sacrifice of the Mass each day in the church of San Carlos in this case? " "III. Must the same Chaplain exhibit the approval of the Ordinary in order to receive sacramental confessions, and to exercise the office of preaching in the church of San Carlos in this case? " RESOLUTION. The Sacred Congregation of the Council, having considered the matter on the day of February 16, 1867, decided to respond as follows: To I: Affirmative. To II: Affirmative. To III: Affirmative. FROM THIS IT CAN BE GATHERED: I. Although the obligations of chaplaincies, which have the conditions of benefices, are to be dismissed according to the laws of the foundation: nevertheless, it is not entirely the same with chaplaincies, which are considered lay, whose chaplains are not, according to ecclesiastical law, removable (1). II. For the former type of chaplaincy determines the place and offices of a cleric in the church perpetually, with a formal reason intervening (i) Recall what we have brought forward in consideration. II. in the index under the word Chaplaincy.

[*Latin ed. p. 96*]

96. OF THE CELEBRATION OF MASSES. The cleric cannot, by the authority of the Church, depart from that place or those offices without a legitimate cause, which must be approved and admitted by the same authority; nor can he be removed except for causes established by law, with a legal process intervening.

111. Chapels of the second kind are to be reduced to pious legacies, by which the heirs of the testator are burdened to fulfill the will of the deceased.

IV. Therefore, not all laws that are in force in the first kind of chapels can indiscriminately be extended to chapels of the second kind.

V. This is even more so in the present case, in which the law of the foundation left the parish priest the faculty of regulating the duties of the chaplains as he deemed opportune.

VI. Furthermore, those who are not parish priests, although they are obligated to assist the parish priest in his office, nevertheless require the approval of the Ordinary to hear sacramental confessions, which must be made known to the parish priest.

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VII. Also, to preach the word of God, they require the permission of the Ordinary, which must be shown to the parish priest or the rector of the church.

[*Latin ed. p. 97*]

March 30, 1867. Session 23, item i, concerning the *Missæ pro Populo*. Summary of the matter. In relation to the state of the Church, the Bishop explained that an ancient custom still prevailed, namely, that Parish Priests should, on Sundays and other feast days, by order, celebrate the Mass of the Confraternities which are established in their parish churches, and that this same Mass should not be offered for the people themselves, but according to the intention of those for whom the solemnities are celebrated. However, when the Bishop, in a certain pastoral encyclical, had called this custom an abuse, and had declared that Parish Priests, either by themselves or, if hindered, by another, were obliged to offer the Mass for the people, many Parish Priests represented that this could not be done; therefore, it seemed advisable to the Bishop that the Parish Priests might celebrate the Mass of the Confraternities, offering it for the people, and also celebrate another Mass on a weekday within the week, with the offering according to the intention of the Confraternities. Therefore, the Most Holy Lord was invoked, that He might deign to declare whether this manner of acting deserved to be approved, or whether He would provide, with His wisdom, as He would judge best to be done in the Lord. Brief discussion. Recalling the chapter 1, session 23 of the Council of Trent, concerning the Reform, and also the Constitution of Benedict XIV. It was noted that the offerings, and the Constitution of the Most Holy Lord, *Amantissimi Redemptoris*, and many resolutions of the Holy See, which declare the obligation of celebrating and offering the Mass for the people on feast days to the Parish Priests, among other things, were observed; and that the contrary custom should be rejected as irrational, for it concerns an obligation which derives from divine law; and which is personal; and which cannot be fulfilled by others, except for legitimate reasons, according to the Constitution of Benedict XIV. And that the offerings cannot be transferred to other days, except for the reason expressed in the same Constitution. Concerning this matter, see the Acts, volume II, page XXVI, 7.

[*Latin ed. p. 98*]

9. MASSES FOR THE PEOPLE. At Fesulana, on June 16, 1770, certain questions were presented to the Sacred Congregation of the Council: 1. Whether a parish priest, on Sundays or other festive days, can celebrate Mass for the deceased, and whether the application of Mass for the people can be transferred to another day in such a case. - And as to whether this can be done: 2. Whether, at least, the application of Mass for the people can be supplied by another priest in such a case. The response was: to 1 and 2, neg-

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atively. Also, in Mechlinen, on September 25, 1847, through a summary of prayers, it was asked whether a parish priest must offer Mass for the people if no legitimate cause prevents him; and whether another person can fulfill this duty. The response was: affirmatively to the first part, negatively to the second, except in the case of true necessity and with a concurrent canonical reason. With these and other considerations, the following question was proposed: "Whether and how the custom is maintained in this case."

RESPONSE. - The Sacred Congregation of the Council, having considered the petition of the Bishop in its meetings on March 30, 1867, responded: negatively and in its entirety.

FROM THE ABOVE, IT CAN BE GATHERED THAT:

1. The obligation of applying Mass for the people cannot be avoided by the force of custom.

2. This same obligation is both personal and real, so that if a canonical reason or necessity arises by which the parish priest cannot celebrate it, he is obliged to have it applied by another.

3. This same obligation applies to parish priests on Sundays and holidays, and cannot be enough transferred to other days except for a legitimate reason.

4. Nor is it permissible to approve of the custom of changing the intention, namely, that a Mass, which happens to be solemnly celebrated on festive days for certain faithful, should be applied for the people; and that for the same faithful, another Mass should be celebrated and applied within the week (1).

(1) Compare what we have gathered, Font. II, page 203.

[*Latin ed. p. 99*]

99 FROM THE HOLY CONGREGATION OF INDULGENCES, DECLARATION CONCERNING FIXED ALTARS. March 26, 1867. Most Blessed Father. HUMBLE PETITIONS. "Leo XII, of holy memory, by a rescript of the Holy Congregation of Propaganda Fide, dated December 18, 1825, granted to the Oblate Missionaries of the Most Holy Virgin Mary, conceived without sin, the privilege of erecting a privileged altar in any of their churches; furthermore, local superiors were empowered to erect altars, even portable ones, without the designation of the Ordinary; and then, because of certain doubts arising concerning this matter, the Reverend Father Joseph Fabre, Superior General of the aforementioned Oblate Missionaries, submitted a humble petition last February, in order to obtain a solution to the doubt concerning the validity of the erection of privileged altars by local superiors without the intervention of the Ordinary, and also to obtain the faculty to designate, for the future, altars which ought to be privileged by the grace of the Holy See."

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Now, the petitioner takes care to explain again that, after investigation, it has been found that there is no truly fixed altar in the churches of his Congregation, but only portable altars placed upon a stone or even wooden table, as is the custom in Gallia. Therefore, he humbly requests Your Holiness to deign to approve with kindness, that in all the churches of his Congregation, the main altar be henceforth considered privileged for all the Sacrifices of the Mass which are celebrated in suffrage for the Dead, even if that altar is only portable; he also requests that wherever in the churches of his Congregation an altar is erected or is to be erected in honor of the Most Holy Virgin Mary, conceived without sin, it also be considered privileged, even if it is not fixed. For which purpose, etc.

[*Latin ed. p. 100*]

APPROXIMATELY REGARDING FIXED ALTARS. DECREE. "His Holiness Pope Pius IX, in an audience granted to the undersigned Cardinal Prefect on March 26, 1867, desiring to bestow special favors upon the Congregation of Missionaries of the Most Holy Virgin Mary, conceived without sin, has benignly remitted all defects that have occurred in the celebration of Masses in the aforementioned altars, which were erected illegitimately, with regard to the granting of a plenary indulgence as a suffrage for the souls of the deceased, from the treasury of the Church; and furthermore, after a prior revocation of the privilege of the altar by a rescript issued by the Holy Congregation of Propaganda Fide on December 18, 1825, He has graciously and perpetually granted that in each church, provided that they are public and at least blessed, both those that are erected and those that are to be erected, which pertain to the aforementioned Institute, or Congregation of Missionaries of the Most Holy Virgin Mary, conceived without sin, and will pertain in the future, the main altar, as long as it is fixed, and no other altar with a privilege is found therein, shall be adorned and distinguished with an Apostolic privilege, so that whenever secular or religious priests celebrate Mass for the soul of any Christian who has departed this life, united with God in charity, at the aforementioned main altar of these churches, the soul itself shall obtain, from the treasury of the Church, a plenary indulgence as a suffrage. In order that no doubt may arise concerning the quality of the fixed altar, His Holiness has decreed and declared that it suffices, to establish the quality of a fixed altar, that a consecrated stone, even if removable, be placed in the center of the altar, which is stable and immovable. As for the second part of the petition, namely, to declare another altar, dedicated to the Most Holy Virgin Mary, conceived without sin, to be privileged, His Holiness considered it not to be granted. This decree is valid from now on, without any brief being issued. Contrary provisions notwithstanding." "Given in Rome, from the Secretariat of the Holy Congregation of Indulgences, on March 26, 1867." JOSEPHUS Cardi-

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nal BIZZARRI, Prefect. A. COLOMBO, Secretary.

[*Latin ed. p. 101*]

104. REGARDING ALTARS THAT ARE CONSIDERED "FIXED": From these points, one may gather the following: I. Altars that are called "fixed" can be understood in two ways: either in opposition to an altar that is portable, or in opposition to an altar that is incapable of solemn consecration. II. Altars of the first kind are truly and properly called "fixed," namely, those that have a stable and immovable structure, whether they are consecrated with a fixed stone, or not consecrated, in the middle of which a consecrated stone can also be placed and removed. III. Altars of the second kind are called "fixed" when they have a stone joined to their base, and they fulfill the other conditions necessary for being capable of solemn consecration. IV. The indulgences that are said to be attached to an altar are not attached to it because of the solemn consecration of the altar, but because of the place that it firmly occupies in the church (1). V. Therefore, it suffices for obtaining the altar indulgence that the altars are simply fixed. (1) Another declaration, given by the Sacred Congregation I in Mechlin, on March 20, 1846, is relevant to this matter. On December 15, 1814, a question was posed: "Is a local Indult of an altar granted by the Holy See, even if no mention is made of it in the petition or in the Rescript concerning the quality of the altar, whether it is fixed or portable? Can an altar be considered privileged, even if it is portable?" To which the response was: "No, it is a personal privilege." In this case, the priest can enjoy the privileges of a privileged altar, even if he uses a portable altar. However, on December 15, 1841, the same person again asked the Sacred Congregation: "I. What does the Sacred Congregation understand by the words 'fixed' or 'local' altar? II. What does the Sacred Congregation understand by the word 'portable' altar?" The response was: "Regarding a fixed altar, it cannot be moved; its upper part, with the stone, is joined to the base, so that the consecrated stone cannot be removed; otherwise, it would be an altar that, having lost its privilege, would require a new consecration. Regarding a portable altar, it is understood to be one that can be moved from one place to another." It is understood that a fixed altar must be of such a size that it can at least hold a paten and a chalice. II. CONSEQUENCES: Since there are different concepts of fixed altars, there are also different consequences that follow from these different concepts. If a privileged altar were removed from one place to another, the privilege would cease. If a consecrated altar were transferred from one place to another, it would not lose its consecration, as stated by the Cardinals in the Decree of May 15, 1819. Furthermore, if the upper part of a consecrated altar were removed, it would have to be re-consecrated, as stated in the same place. On the contrary, if a privileged altar were destroyed and rebuilt in the same place, it would not lose its

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privilege, as stated in this Decree.

[*Latin ed. p. 102*]

102. PETROCOREN. WE ADDRESS TWO GENERAL DISPOSITIONS WHICH CONCERN THE PROPER ADMINISTRATION OF THE TREASURY OF INDULGENCES WITHIN THE CHURCH. From Rome, January 22, 1858. Most Blessed Father: "In the Decrees concerning prohibited books, which were added after the Indulgent Regulations, the following is read: '§. HI. N°. 12' 'All books concerning indulgences, Diaries, Summaries, Pamphlets, Folios, etc., in which the granting of indulgences is contained, shall not be published without the permission of the Holy Congregation for Indulgences.' "Since several doubts have arisen concerning the interpretation of this regulation, the Bishop of Petrocoren and Salata humbly presents them to Your Holiness in Gallus. I. "Is the aforementioned regulation to be understood in such a way that no Summaries, Catalogs, or Folios of indulgences can be printed by the authority of the Order itself, without a special permission from the Holy Congregation for Indulgences, even when it is certainly known that these indulgences are authentic, for example, because the Catalog or Summary was printed in Rome? II. "Is this printing and publication only prohibited to the Ordinary when it is not certain that these indulgences have already been published by the Holy Congregation for Indulgences?" The two doubts presented by the Bishop of Petrocoren were discussed in the Sacred Congregation for Indulgences and Sacred Relics, which was held at the Vatican Palace on December 14, 1857. Eminent Fathers, after hearing the opinion of the Consultor of the Holy Congregation and after mature deliberation, the following vote was taken regarding both doubts: "Article 12 §. III. The Decrees published after the Indulgent Regulations are to be understood and applied in such a way that, if it is a question of publishing the granting of a particular indulgence, or a Summary of indulgences, which is taken from an Apostolic Brief or a Rescript, or a Summary already published by the authority of the Holy Congregation, it is within the power of the Ordinary to grant permission for the printing of the granting of these same indulgences (provided that for any listing, a special permission is not required, and..."

[*Latin ed. p. 103*]

In paragraph 103, the following is expressly prohibited; and conversely, if the matter concerns a summary or something previously collected, but never approved, or if it is now being compiled for the first time from various concessions, the express license of the Sacred Congregation for Indulgences is required. Added with the condition: "Having been presented with the aforementioned text to the Most Holy [Pope], and having been faithfully reported to the Most Holy Lord, our Pope Pius IX, in an audience on January 22, 1858, the Most Holy [Pope] approved the aforemen-

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tioned proposal of the Eminents Fathers." "Given in Rome, from the Secretariat of the aforementioned Sacred Congregation for Indulgences." F. Card. ASQUINIUS, Prefect in place. S.J. Sign. A. COLOMBO, Secretary. Regarding the presentation to the Consultor: The points noted by the Consultor can be easily reduced to these. Indeed, the Consultor observed that in the present question, two things seemed, on the surface, to be somewhat intertwined: namely, the office of the Bishops with regard to the publication of Indulgences, and the office of the Holy Congregation. It is well known that the Bishop is obliged by his right to oversee the publication of Indulgences, so that false or doubtful ones are not rashly disseminated, whether in writing or orally in sermons. The Council of Trent, session 21, chapter 9, commends this vigilance, and at the same time decreed: "Furthermore, Indulgences, or other spiritual benefits from which the faithful ought not to be deprived, are to be proclaimed to the people by the Ordinaries, with the use of two canons from the Council, at appropriate times." Nor have the Roman Pontiffs ceased to impress upon everyone these salutary precepts in various ways, as can be seen in the Decree of the Holy Congregation of April 14, 1856; which we refer to below. However, the Consultor maintained that these two offices are in no way opposed to each other, nor is there any reason to believe that the Indian regulation should not be followed, provided that the Bishop has fulfilled his duty.

[*Latin ed. p. 104*]

104. PETROCOREN. Sed haec ita intelligi debet, ut, cum officio Episcopi intacto maneat, simul habeatur etiam officium Sanctae Congregationis. Quod quidem convenit decreto Sanctae Congregationis Sacrae Romanae et Universalis Inquisitionis diei 6 Augusti 1653, antequam, scilicet, instituta esset Sancta Congregatio Indulgentiarum, quo declaratum est: «approbationem Indulgentiarum et licentiam eas imprimendi spectare ad Ordinarios, sed eosdem Ordinarios teneri communicare tenorem earumdem Indulgentiarum imprimendarum Inquisitoribus ut concorditer videant an sint verae vel falsae.» Ad hunc autem finem dein a Clemente IX. institutam fuisse Sanctam hanc Congregationem, eidemque attributam auctoritatem per Constitutionem, in ipsis Pontificatus primordiis, die 6 Iulii 1669, «falsas, apocryphas indiscretasque Indulgentias typis imprimi vetandi eie.» Quas quidem curas et praescriptiones per quam providas esse Consultor ex facto ostendebat: constare enim plures repertos fuisse libellos et Indulgentiarum elenchos usque ad praesentes dies, cum approbatione Episcoporum, formis etiam solemnibus facta, qui in examen per Sanctam Congregationem Inquisitionis revocati gravibus scatebant defectibus. Quare non esse dubitandum, concludebat, Indulgentiarum libros imprimi non posse sine venia Sanctae Congregationis. Ad maiorem autem rei declarationem circa dubia proposita distinguebat Indulgentiarum summaria et catalogos iam impressos cum venia Congregationis, ab

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aliis absque ea venia impressis, quoad primos opinabatur Consultor in potestate esse Ordinarii dandi licentiam eos iterum imprimendi si eidem de dicta Congregationis venia constet: non autem quoad caeteros, quamvis etiam Romae sint impressi; namque sola impressio horum summariorum Romae facta non semper est argumentum obtentae approbationis a Congregatione, cum interdum acciderit, ut non servatis omnibus praescriptionibus, eiusmodi catalogi temere Romae sint impressi. Aliam praeterea distinctionem tradebat Consultor; scilicet distinguebat impressionem Indulgentiarum quae ex aliquo Brevi aut Rescripto Pontificio illico eruuntur et in vernacula lingua publicantur ad fidelium utilitatem, ab Indulgentiarum collectionibus sive summariis aut catalogis, quamvis ex Brevibus aut Rescriptis erutae dicantur: opinabatur autem, cum de primis agitur, posse Ordinarium absque alia licentia impressionem per-

[*Latin ed. p. 105*]

PETROCOREN. 105: It is permissible to publish [indulgences] if no other particular impediment exists (1); but not concerning others; for the Indulgent Decree expressly prohibits the publication of these [specific indulgences]. FROM THIS, ONE MAY GATHER: I. That, due to the nature of indulgences, which, being intrinsically precious, are readily sought after, and are either extended or adulterated, whether with good or bad intentions; due to the difficulty of obtaining and correctly understanding authentic documents; due to the difficulty of determining which have ceased to be valid or have been abrogated by the passage of time; and finally, due to the lack of a just standard for distinguishing true indulgences from those that are indiscriminate, collections of indulgences are easily corrupted and have often truly been corrupted (2). II. Therefore, the Apostolic See has justly and rightfully excited particular vigilance over this province of granting indulgences, so that abuses may be avoided as much as possible. III. The Holy See, after the Tridentine Decree on Indulgences, has vigilantly sought to eliminate abuses in various ways, first through Bishops, together with Inquisitors of heretical depravity; then through a special Congregation dedicated to Indulgences, without whose approval collections of indulgences may not be published. IV. However, a Bishop to whom the duty of vigilance has not been assigned (3) is not prohibited from publishing those indulgences which are more closely related to the exercise of his pastoral ministry in his diocese (4). (1) See, for example, the list of indulgences which we cited in Volume I, page 57, in the last paragraph. (2) The Council of Trent issued a Decree on Indulgences near the end of the 25th session, and in this way sought to restrain the abuses that had occurred: "But as for other [abuses] which arise from superstition, ignorance, irreverence, or in some other way, since they cannot be specifically prohibited in all the places and provinces where they occur, We command all Bishops that each of them diligently collect such abuses in his own diocese, and that

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they be reported at the first provincial synod, so that, after the opinions of other Bishops have been heard, they may be promptly brought before the Supreme Pontiff, to whom it belongs to determine, with his authority and prudence, what will be expedient for the universal Church; so that the ministry of holy indulgences may be dispensed piously, holily, and incorruptly to all the faithful." (3) See the Decree which we add immediately below. (4) For the illustration of this matter, see the Decree of the Sacred Congregation of Indulgences issued on July 24, 1673, concerning a question that arose between a Bishop and...

[*Latin ed. p. 106*]

April 14, 1856. DECREE. "To the Sacred Congregation for Indulgences and Sacred Relics, which, according to the institution established by Pope Clement IX through the Constitution beginning: 'In ipsis Pontificatus primordiis,' dated July 6, 1669, was granted the authority to resolve any difficulty or doubt arising concerning the Relics of the Saints, or Indulgences; and if any abuses should occur in these matters, to correct and amend them... to prohibit the printing of false, apocryphal, and indiscreet Indulgences, to recognize and examine those that have been printed, and, when reported to the Roman Pontiff, to reject them with his authority. It has often happened that Indulgences, although entirely false, apocryphal, and indiscreet, are nevertheless, through human malice, or negligence, and without any authority whatsoever, printed and circulated. Hence, considerable harm results, <since the faithful are led into error, and enemies of the Most Holy Church have an opportunity to ridicule Indulgences themselves.> Therefore, the Sacred Congregation, at the general meetings held in the Apostolic Palace at the Vatican on March 31st of the past year, considered the matter, at which time the express prohibition from the Sacred Congregation of the Index did not yet exist, of which we have spoken; the decree of this meeting is as follows: "A dispute arose between the Bishop of Cremona and the Inquisitor concerning the printing of Indulgences, when the former stated that whatever pertains to Indulgences belongs to the episcopal forum, and that the judgment and decision on this matter is entirely left to the Bishop; the Sacred Inquisition, however, asserts that it is granted to it, according to the tenth rule of the Index of Prohibited Books, that no book, nor any writing, may be printed without its permission. The question was brought before the Sacred Congregation and carefully examined, and the same Sacred Congregation decided that it should be resolved with the following distinction: Indulgences which the Bishop grants to his subjects and takes care to have printed, as well as pastoral letters in which Indulgences granted by the Supreme Pontiffs are announced to the people, and other writings intended to govern the people, or to be promulgated in the name of the Bishop, all of which properly belong to the episcopal forum, in which penances are prescribed and sins are remitted through Indulgences, and in

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which precepts and edicts are proclaimed, are free from the jurisdiction and authority of the Inquisitor, and may be printed without his knowledge; but in all other cases, the Bishop must communicate with the Inquisitor before they are printed."

[*Latin ed. p. 107*]

URBIS ET ORBIS. 107. Multae hujusmodi Indulgentiae, quae typis excusa sunt, declaratae sunt apocryphae, nullae et indiscretae, et Ordinariis locorum, per quorum Dioeceses eiusmodi Indulgentiae circumferuntur, commendatum est, ut Sac. Congregationis Decreta in hanc rem edita omni studio observari curent. Quum vero incongruum sit omnia semper summaria, libellos, folia etc. persequi, quae indiscretas, falsas, apocryphasque Indulgentias descriptas continent, et qualibet vice prodierint specialibus decretis eliminare, SS. D. N. Pius PP. IX. in Audientia diei 14 Aprilis 1856, praemissam Eminentissimorum Patrum sententiam auctoritate Sua Apostolica approbando, cupiens insuper ut ad inaestimabilem Indulgentiarum thesaurum quod attinet, omnia pie, sancte et incorrupte fiant, mandavit ut hoc Decreto omnes per orbem Ordinarii hortentur, ut, ea qua pollent, et qua uti debent sollicitudine in Dominici gregis bonum usque procurandum, invigilent non modo uti eiusmodi Indulgentiae falsae et apocryphae, quantum fieri potest, minime circumferantur, easque e fidelium manibus removeant, verum etiam satagant, ut Decreta a Sac. Congregatione salubriter edita, ac praesertim super earumdem Indulgentiarum publicatione et impressione observentur. In primis vero Decretum sub die 19 Ianuarii 1756 latum, ei a sa. me. Benedicto PP. XIV. die 28 eiusdem mensis approbatum, quod ita se habet: « cum experientia » quotidie comperiatur, complures Indulgentiarum concessionis generales expediri inscia ipsa Sacra Congregatione, ex quo multi promanant abusus ac confusiones, re mature perpensa, praesenti Decreto declaravit, impetrantes posthac huiusmodi generales concessiones, teneri, sub nullitatis poena, gratiae obtentae exemplar earumdem concessionum ad Secretariam eiusdem Sac. Congregationis deferre. Caeterum ad falsas apocryphasque Indulgentias a veris et genuinis internoscendas, ea etiam recolere locorum Ordinarios iuverit, quae sapienter, de more, et hac in re idem fel. me. Pontifex Benedictus XIV. in opere de Synodo Dioecesana edocuit. Et si praeterea aliquibus in rerum adiunctis super Indulgentiarum qualemcumque authenticitate ac genuinitate...

[*Latin ed. p. 108*]

108 OF THE CITY AND THE WORLD. If there were any doubts concerning this matter, they should appeal to the Sacred Congregation, so that they might obtain a suitable resolution of the doubts. "Given in Rome, from the Secretariat of the Sacred Congregation for Indulgences, on the 4th day of April, 1856. " F. Card. Asorros, Prefect. A. COLOMBO, Secretary.

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FROM THESE, THE FOLLOWING MAY BE GATHERED: I. It is the duty of the Ordinaries to diligently see to it, not only that false and apocryphal indulgences are not disseminated, and are removed from the hands of the faithful; but also that the Decrees of the Sacred Congregation concerning the publication of indulgences are carried out. II. Among such Decrees, it is found that those who have obtained general concessions are bound, under penalty of nullity of the grace, to present a copy of those same concessions to the Secretariat of the same Sacred Congregation (1). (1) Indulgences can be obtained from the Roman Pontiff through the Secretariat of Briefs, and a copy of the concession must be presented to the Secretariat of the Sacred Congregation for Indulgences, or even by other means: when it is a question of general indulgences, which, as is well known, can be obtained by the faithful everywhere, as is evident from examples in our periodicals; see vol. I, pp. 323, 388, 690.

[*Latin ed. p. 109*]

From the Acts of the Consistory. Besides the two public Consistories held on the days of June the 1st and 6th, which were arranged for the solemn canonization, the Most Holy Pope held two other semi-public Consistories; the first of which took place on June 12th: in which not only the Eminent Cardinals were present, but also Patriarchs, Primates, Archbishops, and Bishops who had come to Rome. The Most Holy Pope, after having, with a brief and weighty address, explained the martyrdom of the Blessed Josaphat Kuncevich, the Blessed Peter d'Arbues, and the Blessed Nicholas Pich, along with twenty-nine others; who were their companions in suffering, inquired whether they desired that these be enrolled in the list of the Saints, and asked the assembled Fathers to freely express their sentiments on this matter. Then the Eminent Cardinals, Patriarchs, and Primates, one by one, after having read their votes, expressed their affirmative opinions: but since, on account of their great number, the votes of all the Archbishops and Bishops could not be heard, six Archbishops, and ten Bishops, the most senior of each order, read their written votes, with each one individually nodding in agreement, saying "It pleases," and to which they added, for the reasons that I stated and signed in my vote, which votes were presented to the Reverend Father, the Secretary of the Holy Fathers, or to the Apostolic Chamberlain. After these affirmative votes were heard, the Most Holy Father, in another semi-public Consistory, prepared to hear votes regarding the enrollment of four other Blesseds in the list of the Saints, and in the meantime, urged all to offer prayers to God. And then the ceremonies were held, so that those things which had been done might be recorded in the public acts. In a similar manner, on June 14th, the second semi-public Consistory was held regarding the other four to be raised to the public honors of the Saints. On June 26th, the Most Holy Pope again held a public Consistory in order to bestow the Cardinal's hat upon the Eminent Louis de

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la Lastra y Cuesta, who had been created a Cardinal in a secret Consistory.

[*Latin ed. p. 110*]

ACTS OF THE CONSISTORY. On the sixteenth day of March, in the year 1761. In the meantime, the Consistorial Advocate, Reverend Father Philip Ralli, for the second time, presented the case concerning the venerable Mary Rivier, Foundress of the Sisters of the Presentation of the Blessed Virgin Mary. After these solemnities, the Holy Father delivered an address, which we have reproduced on page 3. On the eleventh day of July, a secret Consistory was convened, in which the Holy Father, among other things, following the aforementioned address concerning the election or nomination made by Catholic bishops of the Armenian rite, who held their assemblies in the church of Bzommar in Lebanon on the fourteenth day of September, 1761, in the presence of the bishop Valerga, Patriarch of Jerusalem, acting as Apostolic Delegate in Syria, and granted special authority for this matter; proposed the Armenian Patriarchal Church in Cilicia, to which he transferred the bishop Anthony Hassun, formerly Archbishop Primate of the same Byzantine rite, who assumed the name Anthony Peter IX. Then, with another brief address, the Holy Father, noting the violent death of Maximilian I, Emperor of Mexico, ordered solemn funeral services to be celebrated in his Sistine Chapel. Then he proposed the following churches: THE METROPOLITAN CHURCH OF SENONES, vacant due to the resignation of Reverend Father Mellono Jolly, who willingly and freely relinquished it to the Most Holy Lord, and who was admitted by the same; to which Reverend Father Victor Felix Bernardou, until now Bishop of Vapincensis, was transferred, by the benevolence of the Most Holy Lord, at the suggestion of the Emperor of the Gauls. The city of Senones is located in Galliae, in the province of Lugdunensis, in the region of Icaunae, near the river Ituna, built in a plain and in a favorable location, and is inhabited by more than ten thousand Catholic inhabitants, under temporary French rule. The Metropolitan Church is a magnificent and Gothic structure, and it bears the title of Saint Stephen, the first martyr, and is assisted by three bishops. Its chapter consists of ten canons, including a theologian and a penitentiary, as well as several honorary canons, other priests, and choirboys, to which are added, on more solemn festivals, students from the large seminary for divine service. The care of souls in the metropolitan church is exercised by a Canon Archpriest, where there is a baptismal font, etc., and among the notable relics of the saints, a reliquary of Saint Thomas of Canterbury is religiously preserved; outside the city there is a cemetery. Four other parish churches are also located in the city of Senonensi, all equipped with baptismal fonts: one belonging to the Carmelites, and a house of religious women, several lay sodalities, a hospital, a large seminary, and a small one in the archdiocese; however, a house of piety is desired. The extent of

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the archdiocese is approximately thirty leagues in length, and twenty in width.

[*Latin ed. p. 111*]

ACTS OF THE CONSISTORY. The jurisdiction extends to the entire province of Icauna and includes several cities and places. The Church of Obanen, elevated to the status of a cathedral by Apostolic Letters dated August 8, 1866, by His Holiness, and vacant since its original establishment, has been assigned to the Most Reverend John Baptist Callot, a priest of the archdiocese of Lyons, through the benevolence of His Holiness, at the request of the Emperor of the Gauls. This prelate has diligently performed his duties, having been co-opted among the honorary canons of Lyons, and has served as pastor at Bonum Pastorem in Lyons. Oran is a city in Africa, the capital of the province of the same name, located in the Kingdom of Algeria, on the coast of the Mediterranean Sea, partly on a plain and partly on a hill. It is fortified with walls, a citadel, and a port, and contains approximately thirty thousand inhabitants, of whom nearly half profess the Catholic religion under French rule. A church exists there, dedicated to Saint Aloysius, which has been elevated to the status of a cathedral by previous Apostolic Letters, retaining its ancient title and parish status, and serves as a suffragan to the Archbishop of Julia Caesarea. Its chapter, in terms of the number of canons, will be established according to the norms of other chapters in France. Meanwhile, in accordance with the aforementioned Apostolic Letters, two of the canons will hold dignities: namely, the Proposit, who is the highest official after the pontifical dignitary, and the Archdeacon, and two others, a theologian and a penitentiary, and temporarily, due to the lack of priests, it will consist of only three canons, including the Proposit. The care of souls in the cathedral is exercised by a pastor, where a fountain is located, etc., and where some relics of the saints are decently preserved. The lack of an Episcopal palace will be addressed through the French government. Furthermore, there is a newly established church dedicated to Saint Andrew in Oran, and a religious house for men and women; a seminary will be established, and in the meantime, diocesan seminarians will be educated in the seminary in Algiers. The territory of the diocese encompasses the entire civil province of Oran and includes several places. The Episcopal Church of Cinnen, vacant under the Archbishop of Ancyra, in the lands of the infidels, due to the death of the late Bishop Peter of Alcantera Zimenes, has been assigned to the Reverend Joseph Cybichowski, a priest of the archdiocese of Posaan, and appointed as a suffragan to perform pontifical and other pastoral duties in the city and the archdiocese of Gnesen, who had already received the license to perform ecclesiastical functions and diligently served in them, having previously been appointed as a professor of Holy Scripture in the seminary, as a reviser for the printing of books, as an examiner for

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the synod, and as the Rector of the seminary, and who had previously resigned from his position as Proposit of the collegiate and parish church in Chodziez. Cenna is a city in southern Galatia in Asia Minor, located near Lake Ascanium and on the border of Phrygia, which is still miserably under the yoke of the infidels. Meanwhile, the Holy Father, wishing to show a sign of honor to the Patriarch of the Armenians of Cilicia, has decided that a petition for the granting of the sacred pallium should be made by him. The Primate, therefore, is the middle one among two.

[*Latin ed. p. 112*]

112 ACTS OF THE CONSISTORY. Bishops of the same rite were brought to the Consistory, where, kneeling before the footstool of the Pontiff seated on his throne, the newly appointed Patriarch requested the sacred Pallium in the Latin language; to which the Pontiff immediately responded: "We shall grant it." Then, the new Patriarch pronounced the oath, as is customary, and gave thanks to the Pontiff in Latin. Present at this solemnity were all the Armenian Bishops who were in Rome, as well as the Patriarch of Antioch of the Syrian-Maronite rite, and other prelates of the same Eastern rite. Upon the new Patriarch and others of the same rite leaving the Consistory, a request was made for the Sacred Pallium for the Archiepiscopal Church of Senones, with the presence of Archbishop Bernardou of the Roman Curia, and for the metropolitan Church of Quito, to which Archbishop Joseph Yerovi succeeded, following the resignation submitted by Archbishop Joseph Riofrio, which the Holy Father had accepted. On the fifteenth of July, the Holy Father, in his sacred dwelling, completed the Eucharistic Sacrifice, to which the new Patriarch himself attended. For this ceremony, he was adorned in the vestments of his own rite, and, holding the mitre in his hands, approached the Supreme Pontiff, who was seated in the Faldstool in the middle of the altar, with Archbishop de Merode of Melitene standing nearby, and Bishop Marinelli of Porphyria. The Patriarch, kneeling, renewed his request and oath in Latin; and the Holy Father, with the assistance of Prelate Caiani, Auditor of the Sacred Roman Rota, and Prelate of the College of Camerlengo, having recited the formula, as is customary, by which the fullness of the patriarchal dignity is expressed, invested him with the Sacred Pallium. Present at the sacred ceremony, besides the noble pontifical family, were Cardinal Barnabò, Prefect General of the Sacred Congregation for the Propagation of the Faith; Patriarch Mashad of Antioch of the Syrian-Maronite rite; Patriarch Valerga of Jerusalem; and many archbishops and bishops of various Eastern rites, as well as Prelates Capalti from the secretariate of the aforementioned Congregation, and Simeoni from the secretariate of the same Sacred Congregation,

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for matters pertaining to the Eastern rite.

[*Latin ed. p. 113*]

113. MOST HOLY LORD, OUR FATHER, BY DIVINE PROVIDENCE, THE POPE. ADDRESS GIVEN IN A SECRET CONSISTORY ON THE XX DAY OF SEPTEMBER, MDCCCXXVII. Venerable Brothers. "The entire Catholic world knows, Venerable Brothers, the greatest damages and most grievous injuries inflicted upon the Catholic Church, upon Us, and upon this Apostolic See, upon Bishops, upon Religious Administrators of both sexes, upon religious families, and upon other pious institutions, by the Piedmontese Government over these past years, with all divine and human rights trampled upon, and with ecclesiastical penalties and censures plainly imposed, as We have often been compelled to lament and to condemn. Moreover, this Government, daily increasing its attacks upon the Church, and striving to oppress it, after having issued other laws contrary to itself and to its authority, and therefore condemned by Us, has proceeded to such injustice as to dare to propose, approve, sanction, and promulgate a law which, with a most reckless and sacrilegious audacity, has despoiled the Church of all its own property within its own and usurped territories, causing immense damage to the civil society itself, and has declared that these goods are to be sold. Indeed, all can see how unjust and how monstrous this law is, by which the inviolable right of possession, by which the Church, by its divine institution, possesses, is attacked, and all natural, divine, and human rights are trampled upon, and all members of the clergy, who have deserved the best from the Church and from human society, and the sacred Virgins, are reduced to the most grievous poverty and destitution." In such a ruin of the Church, and in such a subversion of all rights, We, who, by the very office of Our supreme Apostolic ministry, most diligently strive to defend and protect the cause of the Church and of justice,..."

[*Latin ed. p. 114*]

114 ADDRESS. We must defend, and we cannot remain silent in any way. Therefore, in this most extensive assembly of yours, we raise our voice and, by our Apostolic authority, we condemn the aforementioned law, declare it utterly invalid and of no effect. May those who are the authors and supporters of this law know that they have fallen into ecclesiastical penalties and censures, which the sacred Canons, the Apostolic Constitutions, and the decrees of general councils impose by the very fact of such actions against those who usurp and violate the rights and goods of the Church. Furthermore, let these most bitter enemies of the Church tremble and be horrified, and let them be certain that the most grievous and severe punishments are being prepared for them by God, the Author and Defender of the Holy Church, unless they truly repent, return to the Church, and strive to repair

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the damages inflicted upon it, as We most earnestly desire and humbly implore the Lord of mercy.

Moreover, on this occasion, We wish you to know, Venerable Brothers, that a certain mendacious pamphlet has been recently published in French in Paris, in which, with the utmost perficiency and impudence, doubts are insinuated so that the most grievous events in Mexico might somehow be attributed to this Apostolic See. But how false and absurd this is, everyone certainly knows, and it is made even clearer by, among other documents, a letter written to Us on the 18th of last month of June by the unfortunate Maximilian, while he was in prison, before he met his indignant and cruel death.

Indeed, having this very opportunity, We cannot refrain from paying the most deserved and highest praise to the illustrious memory of Ludovico Altieri, Cardinal of the Holy Roman Church and Bishop of Albano. For, as you know very well, born into a high position, adorned with outstanding virtues, and having performed the most important duties, and dear to Us, when he learned that the horrific disease of cholera was raging in Albano, completely forgetting himself, and inflamed by the zeal of charity for the flock entrusted to him, he immediately hastened there. And without sparing any labors, any counsel, and without avoiding any inconveniences and dangers, he never ceased to help, to restore, and to comfort the miserable sick and dying with his own hands, day and night, without delay or rest, until the horrible disease...

[*Latin ed. p. 115*]

ADDRESS. 115. He was seized, as if a good Shepherd had given his life for his sheep. Indeed, his memory will always be in the annals of the Church, and in the blessing, since he died a blessed death, a victim of Christian charity, and thereby attained the greatest and most enduring glory, both for himself, for the Church, and for your noble order, and for all Catholic prelates. We, although deeply grieved, scarcely having heard of the death of that Cardinal, are nevertheless sustained by great consolation, because we have certain hope that his soul has reached the heavenly homeland, and that there he rejoices in the Lord, and offers fervent prayers to God for us, for you, and for the entire Church. We also give due praise to the clergy of Albani, who, following the illustrious example of their prelate, did not fail to diligently dedicate themselves to all works, especially religious works, to the sick and the dying, even at the risk of their own lives. Moreover, our soldiers residing there are also worthy of praise, both those who maintain public order, commonly called Gendarmes, and those called Zuavi, for they, openly risking their lives, provided a shining example of Christian charity in the recovery of the bodies of the deceased. "Finally, Venerable Brothers, let us not cease to raise our souls to our Lord God, who is full of mercy to all who invoke Him, and let us constantly pray and

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implore Him, that we may stand firmly with you in the battle, and oppose a wall for the house of Israel and for the holy cause of the Church, and that we may vigorously defend it, and lead all enemies of the Church to the paths of justice and salvation."

[*Latin ed. p. 116*]

116 FROM THE SACRED CONGREGATION OF THE COUNCIL. CONCERNING THE RESTORATION TO FORMER STATUS AND THE NULLIFICATION OR DISPENSATION REGARDING RELIGIOUS PROFESSION. February 16, 1867. Session 2, chapter 19 concerning Reforms. Summary of the case. Titius, having made a solemn profession in the year 1843 in the house of the Regular [Canons], after six years of secularization, obtained an indult from the Apostolic See, which he finally renewed in the year 1864, that is, twenty years after the date of his profession, declaring the same profession null and void according to three grounds. Indeed, before the age prescribed by the Tridentine Council, having interrupted his novitiate due to a flight from the novitiate, which he made not once, and finally, due to fear instilled by the Father, he pronounced his solemn vows; therefore, he petitioned for the benefit of restoration to former status, so that he might be heard concerning the lapse of five years, which, according to the Holy Council of Trent, is the time limit for making a claim. The petitions were referred to the Sacred Congregation of the Council, which wrote to the Ordinary and the General Prior of the Order, requesting that they provide information and an opinion regarding Titius's petitions, and that they transmit all necessary knowledge concerning the circumstances preceding, accompanying, and following the religious profession, as well as the reason for the delayed claim. After receiving the response from the Ordinary, a decree was issued regarding Titius's petitions: that he should exercise his right before the Archdiocesan Tribunal according to the form of the Benedictine Constitution: If granted. Thus, the process was completed in the Tribunal, and, since the Archbishop did not issue a judgment, it was referred back to the Sacred Congregation of the Council, with the Most Holy Lord granting that the case be presented economically, that is, with the usual investigations regarding the truth, with the opinions of theologians and canonists, and with the observations of the Defender of the Faith, concerning the religious profession. From the process completed by the Ordinary, the following history of events was revealed. Titius was born on February 27, 1827, and a few months after...

[*Latin ed. p. 117*]

RESTITUTIONIS IN INTEGRUM ETC. 117. Having been orphaned by the death of his mother, he came under the guardianship of his paternal grandfather, and upon the grandfather's death, he moved to his father's house at the age of nine; it does not appear that Titus displayed a virtuous

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character. However, it is certain that the adolescent Titus suffered constant vexations under his irascible father, vexations so barbarous and cruel that he was not only constantly regarded by him with a harsh countenance and hostile eyes, but moreover, he was repeatedly whipped with cruel insults, and even forced to endure hunger, so that he had to seek bread from relatives and neighbors. With one voice, the father longed for the day when his son's presence would free his domestic dwelling, either by embracing the religious life, or by taking up the military *cingulum* (belt), or by any other desperate course: these words the father constantly had on his lips, so that his son might be freed from his presence. About four years later, it seems that Titus decided to enter the military, but wrongly. Therefore, on October 9, 1842, at the age of fifteen years, seven months, and fourteen days, he entered the congregation of the Regular Clerics, at his own request. During his novitiate, Titus did not conduct himself properly, and sufficiently demonstrated that he had abandoned his divine vocation. Moreover, one or two witnesses report that during that same time of his novitiate, Titus used a rope to descend from the window at night to the *tectum* (roof) of the adjacent house, from which, having easily reached the ground, he fled to his grandfather's house; and this happened twice: the first time, he remained outside the enclosure for only a short time, but the second time, he remained from eleven o'clock at night until four o'clock the following day. He returned immediately the first time, because of his fear of his father, who happened to be at his grandfather's house at the same time; but the second time, he is said to have returned due to the persuasions and promises of his grandfather, who promised that he would arrange for him to leave the religious family, with the father's consent. However, the Superior of the Regulars claimed that these nocturnal departures were implausible, although the arguments he presented did not entirely exclude the possibility of the event. Nevertheless, on the day of his profession, to which Titus was admitted after he had completed sixteen years and eight months, it is said that Titus, in the same act, conspired and laughed with his companions, and even pricked another with a needle, for amusement.

[*Latin ed. p. 118*]

118. RESTITUTIONIS IN INTEGRUM, ETC. The aversion to the religious state, engendered by his profession, had grown to such an extent that, having forgotten the obligations he had undertaken, or, if he had ever known them, appearing to have completely disregarded them, he was, due to his immoral conduct, transferred successively to almost seven religious houses, without any hope of amendment appearing. In the sixth year after his profession, with the support of his Superiors, he requested and obtained from the Holy See an indult of perpetual secularization. The religious, having been dismissed from his habit, approached his Father, but, being repulsed with the most severe threats, he sought the island of Corsica, from which

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he did not return until after his father's death, where he now exercises the trades of a merchant and a public scrivener. Since, therefore, he had been involved in reproachable loves with a woman, he desired to marry, which was the motive for the prayers offered. All of this has been summarized by the Canonist. The Theologian, in examining the general series of facts, was of the opinion that the profession should be declared null. The Canonist, however, carefully considering each individual circumstance, not only the testimonies of witnesses, but also the authority to be ascribed to each witness according to the procedures of law, concisely pursued each matter with a certain legal rigor, and concluded only that a dispensation should be granted (1). Having omitted the prior head of nullity presented in the prayers by Titus, which, as Titus himself did not deny, was found to be false, the Canonist proceeded to another head of nullity, which the Orator had asserted under oath in court regarding the two instances of his flight. However, the Canonist clearly indicated the importance of the facts concerning this matter: "The sworn testimony of the Orator is confirmed by Francis, his uncle... who knew of his nephew's first flight from his own wife, but in the second instance, he received him at home, and then, by threats and persuasions, he himself restored him to the monastery. The witness, considering the quality of his character, is not to be considered worthy of belief; but since he is found to be truthful in other parts of his testimony, and consistent with other witnesses of proven faith, he may perhaps be heard in this matter as well; especially since the fact is entirely secondary, from which certainly the decision of the matter does not depend, nor does any other appear to be present in the deponent (1)." The Canonist's role was performed by Father Tancred, Professor of Civil Law.

[*Latin ed. p. 119*]

RESTITUTIONIS IN INTEGRUM ETC. 119 » A special reason for considering this matter. There is not only one witness, but the testimony of two women, who are praised for their proven faith, is added; one of them knew both escapes at a time when the aforementioned Francis was still the husband of his deceased wife; the other saw Titus passing through the public street at night, having secretly left the monastery, seeking his father's house. The escape of Titus from the novitiate is questioned by the then Vice-Procurator General in the briefs given by him to the Holy Congregation, and also by the Reverend Father N.; however, both of them mildly opposed the truth of the matter, and without any probable reason. These are the facts concerning the existence of the event in question; as for its legal value, it should be noted that this fact can be considered either by itself, as a particular cause of nullity due to the interrupted novitiate, or in conjunction with other arguments, from which an invalid profession may arise, or finally, not concerning nullity, but concerning the granting of a dispensation. However, the aforementioned fact, considered by itself,

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does not seem to have sufficient force to warrant the conclusion that a year of probation is considered interrupted, nor is it easily to be judged as a cause of nullity of the profession based solely on this fact. As the Cardinal De Luca states in Disputationes 46 de Regul., the moral theologians and canonists, even after the Council of Trent, have expressed various opinions on this matter. The most learned Pichler, in book 3, title 31, number 7, de Reg., teaches: if a novice, without having laid aside his habit, were to leave with the intention of abandoning the religious life and then immediately return, the novitiate would not be interrupted; and some maintain this opinion not improbably. Nor is the practice of the Holy Congregation different, as testified by the Resolution in Naples, April 28, 1736. But, although such a fact, considered by itself, does not demonstrate the nullity of the profession, nevertheless (the canonist continued), it shows that the initial fear has not been dispelled by the permanence in religion: it seems that Titus returned to the monastery solely out of fear of his most cruel father, who would have severely punished this abandonment; or, even if one were to pretend that there are no meticulous arguments for a valid profession, this fact should be considered useful for the ultimate purpose of obtaining a dispensation, since, among the main reasons for it, the imperfect act of the emitted profession is listed. With these premises from the canonist, we come to the third point, which is the fear caused by the father, which, according to the Holy Congregation...

[*Latin ed. p. 120*]

120. RESTORATION TO THE STATE OF PERFECTION, etc. The matter of restoration is usually considered under three aspects: namely, restoration to the state of perfection, nullity, and dispensation. The Council of Trent, in Session 25, Canon 19, concerning Religious Orders, states: "Whoever of the Religious claims to have entered the Order by force and fear shall not be heard, unless within five years from the day of his profession." In truth, this decree admits of a certain exception, as Lessius points out, but this exception rarely invalidates the decree of Trent, since it is seldom proven by facts. However, Pope Benedict XIV, in the Constitution *Si Datam*, §, testifies that the rigor of this discipline has remained unchanged over time, and that a remedy against the five-year limit has been introduced, namely, the benefit of restoration to the state of perfection, which remedy is reserved to the Roman Pontiff and is granted: 1° when, in the absence of a formal appeal, there are clear indications of contrary will, or frequent protests; 2° when it is established that there was an inability to appeal. These reasons are inherent in the very decree of Trent, for the Council decreed that after five years, a Religious should be heard, because after that period of time, it is presumed that the Religious has ratified his profession. However, since presumption must give way to truth, it is fitting, according to Pignat's *Consilia*, 173, t. 9, n. 10, that Doctors have held: "Continuous

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and never-interrupted protests make up for the lack of a formal appeal." Given these principles of law, it is clear that the Canonist has not lacked in this present matter contrary expressions of the will, frequent complaints, whether those that precede, accompany, or follow the religious profession, whether expressed in words, or even in deeds, which are more eloquent. Although the Canonist did not readily admit of another exception, namely, the inability to appeal due to fear, he maintained that the same inability due to ignorance could be admitted, which he demonstrated both by fact and by law. For example, Titius, being fifteen years old, entered the religious life without any education, and did not persevere in it for the period of time in which he could have acquired the studies from which he could have learned the knowledge necessary for the matter, namely, the nullity of the religious profession, and the remedy granted by law to obtain it, the time for instituting a judgment.

[*Latin ed. p. 121*]

RESTITUTIONIS IN INTEGRUM ETC. 121. He demonstrated that such an impediment could also be admitted by law, because, although ignorance of the law cannot be invoked by adults, it always excuses minors, according to law 9 ff. concerning ignorance of law and fact, and sometimes it is tolerated even in adults, when they are not seeking to obtain a profit, but to avoid a loss (law 8 ff. concerning ignorance of law and fact): and it is to be considered that he is acting to avoid a loss, who complains against a profession not freely made, because he claims a right that has been taken away from him, namely, the free choice of his state of life, from which peace of conscience, human happiness, and often even eternal salvation depend. According to the mind of the Orator, he further observed that the value of these complaints or excuses must be considered to be of greater or lesser importance, depending on whether the fear is greater or lesser, according to Constitution Si datam: from which, whether restitution in integrum is to be granted or denied, it is to be inquired and discussed as if the intrinsic merit of the nullity or validity of the freely made profession were being considered: to which are consonant the Resolutions of the Sacred Congregation in Gratianopolitan, on November 24, 1770, and in Theanen, on November 23, 1782, which teach: that restitution in integrum should always be granted when fear and grave danger have fallen upon a constant man, as, on the contrary, it should be denied when the fear has not been proven. Having recounted the continuous vexations unjustly inflicted by the inhuman father upon Titus, which forced him into the cloister, and having considered the authority of the witnesses, he finally adduced the doctrine which is truly reported in the case of Verdunen, on February 24, 1720, number 3, where it is read: "It seems certain that, although fear may fall upon a constant man, and although it may come from external and free causes, it does not invalidate the profession, unless it is proven that it was

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induced to the effect of extorting it." Also, Fagnanus in cap. Si quis, no. 'Si,' and in cap. Sicut nobis no. 29 de Regni. The decision of the Rota 798 no. 58 and 59 before Molines is also relevant: "When even threats and effective chastisements were not light, as in this case, but still very serious, if they were not inflicted for the precise purpose of extorting consent or a profession, they are not to be taken into consideration, nor do they invalidate the profession." And this is not established only in the case of religious profession or only by canon law, but in any other act.

[*Latin ed. p. 122*]

122 RESTITUTIONIS IN INTEGRUM, etc. The freedom is sought, and also by civil law, as stated by Donnelo, book 1, chapter 29, number 12, volume 4. Although there were indications in the testimonies that suggested the father directly compelled the son to enter into a religious state or make a religious profession, the Canonist nevertheless wished that distinct questions be put to the witnesses by the defender of the religious profession, from which it could certainly be ascertained whether the son embraced the religious state solely on account of the father's cruelty, or rather, was compelled by the father who instilled in him that will and that fear. For if the witnesses had been distinctly questioned on this matter, perhaps greater force would have been given to what one witness recounted, with these words: "The father of Titus told me: Do you know that I spoke in secret with the Superior of the congregation, so that he might grant the habit to Titus?" And when I added: "And if Titus himself does not wish to be religious?" he replied: "He will do my will, otherwise I will drive him out of the house." Likewise, greater force would have been given to these words of the son to the father, cruelly acting: "Alas! Father, do not kill me; for I will become a religious." Which, taken by themselves, might be explained, or that the son, solely on account of the father's cruelty, spontaneously chose the religious state, or that he judged, solely by his own judgment, that this was the father's will. Furthermore, when several witnesses testified that the father, in the heat of anger, frequently proposed to the son either the religious state, or the military, or some other desperate course of action, the Canonist observed that such proposals, when considered by themselves, should be understood as mere expressions of speech and manifestations of an angry mind, or, if they are understood to indicate a serious intention, they show that the father intended to drive the son to despair, and to compel him to abandon the paternal home. However, another question was put by the same defender of the profession, which seems to touch upon this matter. The question was as follows: Is it true that Titus demonstrated to his father his aversion to the religious state, and how and when did he make this clear? To this, Francis, Titus's uncle, of whom we spoke above, replied: "Titus, in my presence, four or five times showed his father his aversion to the religious state, saying: 'Why does Father want me to become a religious?

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I do not want to, and I would rather pursue my studies and take up some profession.'"

[*Latin ed. p. 123*]

RESTITUTIONIS IN INTEGRUM ETC. 123 Furthermore, the Canonist presented other testimonies, by which it seemed to be confirmed that Titus had been directly compelled by his father to embrace the religious state, specifically mentioning the account given by Patruus regarding the flight, although the father's offense against the desertion did not appear to be entirely unjust; nor did he neglect to recount another incident narrated by the same Patruus; namely, that Patruus himself had led his brother, or Titus' father, to the monastery approximately a month before his profession. Titus descended into the novitiate, and, turning to his father, said: "Take me away from this state; I do not wish to remain here any longer." Upon hearing these words from Titus, the father struck his son violently and cast him to the ground, and then departed. Therefore, since it was clearly evident from all that had been presented that there was an imperfection in the act of the emitted profession, the Canonist concluded: "If what has been explained so far is insufficient to conclusively prove the validity of the profession, so that it might provide a positive answer to the first and second questions proposed, it certainly ought to raise a serious doubt regarding the invalidity of his act, which is sufficient, according to the current discipline, to demonstrate the appropriateness of an apostolic dispensation."

WHAT THE DEFENDER OF THE RELIGIOUS PROFESSION OBSERVED. Initially, the defender sought to demonstrate that Titus had not been blameworthy, nor had he embraced religion through coercion, but rather, having preferred better things, he had chosen the religious state, so that he might not prolong his life amidst beatings and hunger; that he had spontaneously sought admission to the habit; and that there was no need to believe Patruus' account of his nephew's flight from the monastery, since two parish priests had testified to his dishonorable conduct. However, he denied that restitution in integrum should be granted, for ignorance of the law excuses no one; and although, in some way, the less learned, or soldiers, or the uneducated may be excused, Titus, having become a grown man and learned, had maintained a profound silence for ten successive years. Furthermore, he asserted that the Tridentine law was peremptory, stating these severe words: "Whoever claims to have entered religion through force and fear is not to be heard, except within five years from the day of his profession." This text is embellished by Cardinal De Luca in *De Regul.*, discourse 41, and elsewhere. Although, when dealing with civil acts, a "fumus iustae causae" (appearance of a just cause) is considered sufficient to grant restitution in integrum, nevertheless, when the matter

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concerns...

[*Latin ed. p. 124*]

124. CONCERNING RESTORATION TO THE ORIGINAL STATE, ETC. Regarding the restoration of a professed religious to the state of a secular person after a five-year period, it was argued that the law of Trent imposed a greater strictness. This law was formulated as if, after the lapse of five years, a prescription had arisen against the action of a complaint against the very profession itself; nor did the Benedictine Constitution, if given, establish anything different. Hence, the defender argued for the merits of the case, stating that if Titus had feared anything, it was only beatings and the deprivation of food, which indeed had happened to him, not so that he might escape religious life, but because from his youth he had committed shameful and obscene acts, or because he had associated with dissolute companions in public places and streets, as one or another witness recounted; therefore, his father had had just cause to correct his son, in which case there was no serious fear. However, the defender argued that Titus had not been forced to accept the religious habit, first because he had chosen it, so that he might not have to earn his bread through some other laborious means, second because of a spontaneous petition made by himself, third because of the cheerful spirit with which he made his profession, and fourth because of the subsequent years in which he lived in religion, renewing his profession seven times, and never once raising any doubt, or the slightest question, about the validity of his profession. From these matters, carefully discussed, the conclusion was reached that there was no place for a dispensation, since there were no causes; not only was there no public cause lacking, but also, from what has been said, there was no cause that was requested due to a doubt about the validity of the profession. Doubts: I. "Is there a place for restoration to the original state in this case?" And this, affirmed. II. "Does it appear that the religious profession is null in this case?" Or rather, I. "Is it necessary to consult the Most Holy [Father] for a dispensation from the solemn vows in this case?" RESOLUTION. – The Holy Congregation of the Council, after discussing the case on February 16, 1167, decided: Regarding I and II, provision will be made. Regarding III, affirmatively.

[*Latin ed. p. 125*]

RESTITUTIONIS IN INTEGRUM, etc., 125. From these [points], the following may be gathered: I. In matters which depend on facts, in order that they may be properly defined, it is necessary, according to the course of law, to consider first the authority of witnesses, so that their testimonies may be justly evaluated (1). II. A religious, whose validity is impugned by force and fear after five years, should not be heard, unless he presents arguments which indicate that they foresee a favorable outcome for his

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cause. III. With these arguments presented, the Holy See may grant the benefit of restitution in integrum, by which faculty is granted, even after the lapse of five years, to have the cause examined before his own judges, according to the Benedictine Constitution: "Si datam, unless the Holy See, after a regular process in the court, immediately undertakes to examine the entire matter" (2).

(i) When it is a question of some point of the matter on which the decision of the cause may depend through the application of law to the fact, first of all, the existence of the fact must be secured. However, certainty does not always arise from the testimony or the account given by the witnesses; but often the quality of the witnesses must be considered, whether they are worthy of belief, especially when the fact is deduced from the statements of only one or two witnesses. For although every word stands before the mouths of two or three witnesses, it must be understood that we are speaking of witnesses who are worthy of belief, and who are not subject to any exception. We believe that, in the present case, the Holy Congregation did not respond to the second question with an affirmative answer, because the testimonies from which the fact was deduced had directly been imposed on Titus to extort his profession, and were not given by witnesses worthy of full faith. Although Titus' father initially seemed only to intend to expel Titus from his sight; nevertheless, after Titus, in order to appease his paternal anger, entered the religious life, the father's will was entirely directed towards ensuring that his son persevere in the novitiate, and become a religious; which is certainly direct coercion. But the facts which demonstrated this were primarily testified to by Titus' uncle, who, because of his morals, did not seem worthy of belief.

(ii) This practice had already prevailed in the Roman See, before Benedict XIV sanctioned it by the Constitution: "Si datam, as the same Pontiff declares, and on this matter, one can also read what Cardinal De Luca writes in *De Regul.*, disp. 41. He writes that causes for restitution in integrum, which are not granted unless by the Holy See, are usually referred to the Congregation of the Council, in which the main point of nullity, or the merits of the cause, is discussed in such disputes, so that when, after this formal examination, the judgment of the Holy Congregation is given, then the principal cause appears to be more frequently decided by the judges, and their process is somewhat ceremonial; but sometimes, although rarely, it happened that the outcome of the cause was different, when, namely, the Holy Congregation, through a formal process...

[*Latin ed. p. 126*]

126. CONCERNING RESTORATION TO THE STATE OF PERFECTION, ETC. IV. No act of violence or coercion, however atrocious, renders a profession null; but only that which is directly shown to have been employed to extort the profession. V. A serious doubt concerning the validity of the

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profession can provide grounds for obtaining a dispensation. VI. Furthermore, it must be understood that flight from the novitiate does not always interrupt the year which must be continuous for a valid profession; therefore, they should consider only the probable outcome, or, as they say, the "smoke" of a good cause. It was therefore customary to present to the Sacred Congregation a single doubt: whether a restoration to the state of perfection should be granted. And if a positive response was given, the cause in merito concerning the nullity of the profession due to violence and coercion was then considered before the proper judges. However, since, in addition to the declaration of nullity, an Apostolic dispensation concerning the religious profession has been more frequently requested, when it is not sufficiently established that the profession is null, such cases are often handled directly by the Holy See, with three doubts, as in the present case. It must be admitted, as it seems to us, that when such cases are handled immediately at the Holy See, the first doubt is preferably presented as a matter of form, in order that the established procedure may be observed, since the entire cause should be immediately discussed in a single judgment. Immediately, therefore, the second doubt is discussed; and if it is resolved in favor of the petitioner, the cause is ended, and the religious who petitioned does not need the benefit of being heard, since he has already been heard more than sufficiently, as is evident. However, if this doubt is not resolved in favor of the religious, the religious who petitioned seeks in vain a restoration to the state of perfection, in order to be heard, since he has already been heard and has failed.

[*Latin ed. p. 127*]

127. ADMINISTRATION OF THE SACRAMENTS AND FUNERALS. July 8, 1865, and February 16, 1867, Sessions 24, chapter 13, and Session 25, chapter 13, *Acta*. Summary of the case. At the beginning of our century, after those horrible wars which devastated all of France, and after affairs had been settled, agreements were entered into between the Apostolic See and the French Government regarding the worship of religion. In Article IX of this Concordat, it is written: "Bishops shall establish new parishes within their respective dioceses." The Bishop N. divided his city into three regions, and, having assigned temples to each region, he appointed a parish priest to each region. It must not be overlooked that among these three temples, the very cathedral temple is included, from which the third parish priest receives his title. Having established the parishes in that city in this manner, the Bishop turned his attention to establishing statutes for his cathedral chapter. Among the chapter statutes, the following are found: Article I: "The cathedral church chapter consists of eight canons and two general vicars of the Bishop." Article IV: "The parish priest B. (that is, the parish priest to whom the cathedral temple has been assigned) and the rector of the seminary shall hold a place among the canons when they are present

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in the choir." Finally, Article XV: "Ordinary funerals, baptisms, marriages, services, and sermons shall be performed by the parish priest or his vicars." In addition to the titular canons, other honorary canons are added, who, according to the custom of the place, are admitted to possession in the same manner and with the same rites as the titular canons, and they assist the aforementioned titular canons, especially on Sundays and holidays. We have stated these things in order that the question arising between the parish priest B. and the chapter may be more clearly understood. "Twelve years ago," to use the Bishop's words, "a serious disagreement arose" between the chapter of the cathedral church and "the curate (or parish priest B.) of the parish annexed to this church" regarding the administration of the sacraments to dying canons and—

[*Latin ed. p. 128*]

128. ADMINISTRATION OF THE SACRAMENTS AND FUNERALS. "Regarding the performance of funeral rites, the Chapter affirmed that it was its duty to perform these functions, while the Parish Priest claimed them for himself. Although the Bishop, with commendable zeal, had sought to remove this disagreement from the beginning, the controversy flared up again, especially in the year 1864, when the titular Canon died. A significant portion of the Canons asserted their rights, which they had maintained for many centuries and which, at least for forty years or more since the Concordat of 1801, had been observed without dispute, and were generally admitted throughout Gallia. The Parish Priest, along with three other Canons, supported by Decrees of the Sacred Congregation of Rites, maintained that it was their right to administer the sacraments to dying Canons and to perform their funerals. The matter came before the Sacred Congregation. After hearing the Bishop's opinion and the arguments of both parties, the following questions were proposed in the form of doubts: I. "To whom does the right belong to administer the last sacraments to titular Canons and honorary Canons residing in the parish (B) in this case? II. To whom does the right belong to remove the body of a Canon residing in the parish (B) and to transport it to the cathedral church and thence to the public cemetery in this case? And in order to obtain a favorable ruling: III. Can the Parish Priest (B) participate in the funerals of Canons who die in his parish, wearing his stole and cope in this case?" On July 8, 1865, the Sacred Congregation, responding to these doubts, issued its decision in these words: "Regarding the first, second, and third questions, the Parish Priest is to be granted a reasonable time to present his rights, supported by evidence, even from the Chapter, regarding the custom. With these new considerations, the case was again presented for discussion. Briefly, in the following discussion, we gather what was argued on each side. Arguments in favor of the Parish Priest: 1. The Parish Priest was supported by the common right, as stated in the document *De Privilegiis*, which

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reads: 'Religious who administer the sacrament of extreme unction or the Eucharist to clerics or laity...' "

[*Latin ed. p. 129*]

ADMINISTRATION OF THE SACRAMENTS AND FUNERALS. 129. Priests, without special permission... incur the sentence of excommunication. "From which it is deduced that the right to administer the sacraments to one's parishioners belongs exclusively to the parish priest." Furthermore, mere residence does not make someone a parishioner, as was indicated by Fagnano in chapter 5 concerning Parishes. Therefore, those who resided within the parish of Priest B. were only obliged to receive the sacraments from Priest B. This is consistent with the resolutions of the Sacred Congregation of Councils, such as in Eugubina on April 2, 1729, in which, concerning the question: "Is it permissible for the Cathedral Priest of Eugubii to administer the sacraments to any clerics and priests, whether infirm or residing in other parishes?" and whether "this right pertains exclusively to the parish priest of their domicile," the response was: "No, it pertains exclusively to the parish priests of the domicile." Indeed, even canons cannot claim these parochial rights, even though the care of souls rests with the Chapter, and is exercised by a Vicar, as is deduced from Milan, April 26, 1732. Regarding the second point of the question, it was noted that all those who do not have a *electa* (family burial plot) and lack a family tomb, are to be buried in the parish church; moreover, clerics attached to a particular church and permanently residing therein, if within that same church there exists a special and distinct tomb for canons and beneficiaries, are to be buried therein, if they do not have a *electa*; concerning which, reference should be made to the decision of the Sacred Rota in Otranto concerning burials, on November 27, 1713, before Arvaldo, and the practice of the Sacred Congregation of Councils was consistent. All matters pertaining to funerals are, by common law, favorable to the parish priest, such as the right to associate the body, to carry the pall, to sprinkle the deceased with holy water, and to chant the antiphon "Exultabunt Domino," etc. - thus, in Callien on December 20, 1828, concerning the question: "To whom does the right belong to carry the pall, to sprinkle the body with holy water, and to chant the antiphon 'Exultabunt Domino' at the funerals of canons of the cathedral church, in this case?" The Fathers responded: "Affirmatively, to the parish priest of the deceased." But, lest the Chapter object based on a contrary custom, which holds great value in this matter in particular, Priest B. maintained that in the present case, a contrary custom was entirely invalid, according to Acta, volume III, section XXVII, 9.

[*Latin ed. p. 130*]

130. ADMINISTRATION OF THE SACRAMENTS AND FUNERALS.

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It was argued that the custom was lacking. For a custom must be either immemorial or established for forty years with a title that induces prescription; neither of these, however, was said to exist in the cathedral. It was not immemorial, since the current Chapter began in the year 1802, suppressing the old one with its rights, privileges, and prerogatives of any kind, by the Bull: *Qui Christi Domini*. Nor was there a prescription of forty years, since the last sacraments were always, or almost always, administered to the canons, not by any canon, but by the Vicar General. Furthermore, the canons were often given burials by the parish priest of the city, except for three cases that occurred in the years 1834 and 1836. Finally, the Chapter could not claim the title of prescription, and even more so, because the Chapter statutes published in the year 1802 assigned the faculty of burial solely to the parish priest and his vicars, and made no provision either regarding the administration of sacraments to sick canons, or regarding their funerals. Therefore, the parish priest concluded that the common law must be observed.

THOSE THINGS WHICH FAVORED THE CHAPTER. The Chapter, through its defender, defended its rights, and argued that the canons were parishioners of their church, even though they did not live within the boundaries of the parish. Among other arguments, the defender cited the case of Berthon, which was discussed on December 3, 1718, before the Sacred Congregation of Councils. In that case, the matter concerned a collegiate church presided over by an Archpriest, who also performed the duties of a parish priest. However, since other parish churches were subject to the collegiate church, many questions were raised; among them, the following question was proposed: "Whether a canon of a collegiate church, residing in a house located within the boundaries of another parish, from which the said collegiate church lacks canonical buildings, is obliged to receive the last sacraments from the collegiate church, or rather, from the parish priest of the domicile?" To this, the Sacred Congregation responded: affirmatively regarding the first part, and negatively regarding the second (1).

(1) Often, nothing is more deceptive in matters of law that are applied to a specific case than to present resolutions of the Holy Congregations without a narration of the same case. For since the facts are indefinitely variable, the law that is to be applied takes on different aspects according to the variety of circumstances. These aspects are not arbitrary, but depend on other rules of law that come into conflict, such as custom, prescription, and legitimate agreements.

[*Latin ed. p. 131*]

ADMINISTRATION OF THE SACRAMENTS AND FUNERALS. f 31 The Orator placed the greatest emphasis on the force of custom, which had prevailed throughout all of France from ancient times, and which had

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not been revoked by the aforementioned Concordat: for Cardinal Caprara, in matters concerning the Chapters in France after their reorganization, decreed among other things: "Archbishops and Bishops, in the future, will be responsible for ensuring that the governance, administration, direction, and daily offices of the Chapters, as well as all other duties to be performed by the Dignitaries and Canons of those Chapters, are defined and established according to their own judgment and prudence; however, they shall leave to their successors the faculty of amending those statutes, provided that the advice of the respective Chapters is first obtained...." And in these statutes, whether newly established or amended, account shall be taken of the beneficial customs and practices previously in force." These last words of the decree were most relevant to our matter. For, as the Orator demonstrated, although the statutes of the Chapters did not explicitly mention the preservation of this custom of which we are speaking, nevertheless, it had always been observed throughout France, without anyone objecting. And the Orator demonstrated that this custom was worthy of praise. The custom that he described and supported with documents, etc. Such rules of law, due to the variety of circumstances involved in the questions, often resist the general principle of law that would seem to apply, and if they prevail or clash, a contrary or at least tempered resolution must be produced. This is what happened in the alleged resolution of Derthona. For, while the Sacred Congregation of Councils often responded according to the law that the administration of the sacraments for Canons and beneficed clergy of the cathedral church, and for those living in foreign parishes, belongs to the parish priest of the domicile or residence, and not to the parish priest of the cathedral church, as in Mantua on March 16, 1680, in Tivoli on May 12, 1685, in Tolentina on September 2, 1694, in Novara on September 17, 1695, in Narni on September 26, 1699, and in the aforementioned Eugubina on April 2, 1729; it is clear how much weight should be given to the resolution to the contrary issued in Derthona. Indeed, although this resolution is not found in the records of the Sacred Congregation of Councils, there are indications that it was issued either on the basis of custom or of legitimate prescription: for, after an appeal, the case was again presented on December 7, 1720, and in response to question XV: whether the previous decisions should be upheld, the answer was: "Regarding XV, examine the witnesses properly, and in the meantime, maintain the judgment of the year 1649." From this, it is clearly evident that in Derthona, a matter was decided based on custom or prescription, which was to be proven by witnesses, and which perhaps related to some judicial sentence.

[*Latin ed. p. 132*]

132. CONCERNING THE ADMINISTRATION OF THE SACRAMENTS AND FUNERALS: It is customary in the following manner: Each Canon, whether titular or honorary, if he suffers from infirmity and is in extreme

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danger of death, regardless of where in the city he resides, and to whomsoever he belongs in a parish, receives the sacraments and the offices of piety from his own colleagues: Namely, the General Vicar, who is mentioned in the Chapter concerning the Canons, or the Dean of the Chapter, or any other titular Canon, usually accompanies the infirm Canon, and it is customary for them to administer the sacraments to the Canon who is titular or honorary, or to provide for him. And when a Canon dies, the solemn rites are performed by his colleagues, the weekly Canon bringing the deceased's body first to the cathedral church, and then to the common burial ground, which, according to the civil laws (in accordance with the progress of our age and ethnic customs), is a separate burial ground for the Canons, which was located in the church. This custom, which has commendably prevailed throughout almost all of Gallia, and which contributes to the external splendor of divine worship and to the fostering of fraternal charity, was demonstrated to be well-established by copious documents presented by the Orator in the city in question; from which documents, in the interest of brevity, we abstain from providing details. Therefore, the previously raised questions are now to be resolved. I. "Does the right to administer the last sacraments belong to the titular and honorary Canons residing in the parish (B.) in this case?" II. "Does the right to carry the body of a Canon residing in the parish (B.) to the cathedral church, and from there to the public cemetery, belong to anyone in this case?" And this, with the affirmative vote of the Chapter. III. "Can the Parish Priest (B.) participate in the funerals of Canons who die in his parish, wearing a stole and cope in this case?" RESOLUTION. – The Sacred Congregation of the Council, after discussing the matter on February 16, 1867, decided to respond as follows: To I. Affirmative, with the favorable vote of the Chapter, regarding the titular Canons; regarding the honorary Canons, evidence is provided in their favor.

[*Latin ed. p. 133*]

ADMINISTRATION OF THE SACRAMENTS AND FUNERALS. 188. Affirmative in all matters concerning the favor of the Chapter, as in the first [point]. Regarding the third [point], negative. FROM THESE, THE FOLLOWING ARE DEDUCED: I. Although from the earliest centuries of the Church, a distinction was made between parishes, and this was again emphasized by the Council of Trent, session 24, chapter 13, concerning reforms, namely that a priest is appointed to each parish, to whom the care of souls of all those living there is specially entrusted: nevertheless, a reasonable custom which in some way deviates from this universal discipline, is not to be condemned. II. A reasonable custom, legitimately established, is to be considered, whereby the Canons of the cathedral church administer the last sacraments to their colleagues, perform the funerals, and inter the deceased Canons independently of their own

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parish priest. III. This custom prevails almost throughout Gallia, which contributes both to the splendor of divine worship and to the fostering of fraternal charity among the Canons, who constitute the senate of the Bishop and the Diocese. PURCHASES. December 1, 1866, and February 16, 1867. SALES. Session 25, chapter 11, concerning reforms. A summary of the facts. Due to an unjust law of demagogues, a certain house of Regular religious, together with its attached property, came under the domain of the government, commonly called the "municipal domain." The religious men who resided there remained in a designated part of the same house. However, since this house was distinguished by its special significance to the Order, the Regulars did not neglect, in every way possible, to protect it from ruin. They chose Pomponius of Virum, and invited him to establish, at their expense, a college – a dormitory, as it were – under a certain apparent agreement, provided that this be established in that house; and they contracted a long-term lease for that house, for the time when it could be done.

[*Latin ed. p. 134*]

134. OF PURCHASE AND SALE. Bernio would accept, with the condition imposed upon Pomponius that he should, in every way possible, assist the Regulars so that they might subsequently purchase the house and the adjacent property. But shortly afterward, when the house was offered for public sale, a different agreement was made, namely: "The Superior of the Regulars authorizes Pomponius to purchase the house and property in his own name for the Religious," and in return, "Pomponius, believing that the Regulars could be declared before the Church and before God to be the owners of that house," promised to return it to them when they were able to take possession, with only the reimbursement of the expenses incurred by him. With these matters arranged, and having obtained the necessary funds from ecclesiastical authority, Pomponius proceeded to purchase the house. Among those who were interested in the Regulars acquiring the house for a proper purpose was a certain Priest; however, influenced by the persuasions of the Regulars, and knowing that Pomponius was acting on behalf of the Regulars in order to keep the house from being sold, he withdrew from his intention. With this obstacle removed, Pomponius, having received from the Regulars the sum of 25,000 livres, declared before the notary: "that he was prepared to purchase the house in his own name, but that, for the benefit of the Regulars, he would purchase the same house at the price and on the terms that would be acceptable to the Regulars," and that, in the meantime, he would leave the house for their use and full disposal to the family of the Regulars... and that, in due time, he would return it to the Regulars, as would be his right, when and as it pleased or was convenient for them. Since it did not seem appropriate to express all the conditions in this public declaration, certain private agreements were

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made. Therefore, as the Regular Superior related at the present time, a certain document was prepared by the Religious, in which it was clearly stated that the house purchased was in the full and complete ownership of the Regulars, so that Pomponius would appear as a simple administrator. But this document, in which the articles of the agreement were clearly expressed, was not acceptable to Pomponius, and therefore another agreement was made, in which it was declared: "Since Pomponius did not purchase it for himself, but for the Church and for the Regulars of N. a), to whom he paid the money, and who promised him another..."

[*Latin ed. p. 135*]

SALE AND PURCHASE. 135 "which he still owes..." The parties desiring that the agreement established be clearly and accurately understood, declare and stipulate as follows: Pomponius purchased the house and property belonging to the Religious Order, using funds obtained from the Regular Canons, in order to administer those funds for the benefit and advantage of the aforementioned Regular Canons, and as an absolute owner before the law: first, maintaining the condition that before the Church and God, the property remains fully the property of the aforementioned Regular Canons, and so that Pomponius acts as a simple administrator towards them.

After these and similar connected facts, which were drawn from documents presented by the Regular Canons, the Superior of the Regular Canons recounted how the matter had proceeded: "The definitorium council of that province decided to establish a nautical college for its own members, and Pomponius was to be its director, receiving an annual honorarium of 2400 florins, in addition to other emoluments. However, two years later, Pomponius, having relinquished the office of confidential procurator, without the consent of the Regular Canons, transferred the direction and use of the college to his brother through a notarial deed." The definitorium council, after considering the unsuccessful attempts at resolving the matter through complaints and proposals for conciliation, and after hearing the opinion of legal experts, declared that Pomponius had been removed from his office as director of the college and as administrator of the house and its surrounding properties. The matter proceeded to the point that Pomponius was summoned before the civil tribunal... and he also acted as if he were the owner before the Church, adhering to the opinions of certain theologians.

Therefore, after hearing the report of the Ordinary, and after hearing the arguments of the parties involved, the question was presented to the Holy Congregation under the doubt that is stated at the end.

A concise summary of the arguments.

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ARGUMENTS PRESENTED IN FAVOR OF THE REGULAR CANONS:

Since the crux of the question consisted in whether Pomponius purchased the house and property belonging to the Regular Canons in such a way that he was not merely a simulated buyer, it was observed that, in order to establish a simulation of a contract, it is sufficient to demonstrate that there was a reason for simulating the transaction, and that two or three concurring conjectures are present, as stated by Mascard, *De Prohibitis Concilii*, 438, n. 3 et seq., and by Farinacius, *Variarum Quaestionum De Falsis*.

[*Latin ed. p. 136*]

136. OF PURCHASE AND SALE. *Simul*, q. 1, 6, 2, n. 9; *Rota in dec.*, 2, 6, 2, n. 17, p. 11, *rec.* in Ferrariensis; *Immissionis*, 12 Ianuarii, 1749, n. 7, etc. But in the present matter, the reason for alleging a *simul* is found in an unjust civil law which added alien property to the domain of the government, and also in the care and diligence of the Regulars in preserving the most excellent Convent. Furthermore, conjectures are raised concerning agreements made with the intention of establishing in that house a college, to which Pomponius himself was supposed to appear as its leader, although in reality he was only a delegate and procurator of the Regulars. But all these things were made clear by the explicit words of various agreements, in which Pomponius was declared to be nothing other than a buyer who had acquired property for the Regulars, not for himself, but for those very Regulars.

WHAT WAS PRESENTED IN FAVOR OF POMPONIUS. Pomponius attempted to refute the arguments of the Regulars, claiming that the purchase concerned a contract of a society with regard to the erection of a college. However, the agreements made concerning the purchase, while indeed granting special benefits to the Regulars, did not, in any way, prevent them from religiously acquiring the disputed property, provided that all the conditions prescribed by the Church at this time were fulfilled, by virtue of which the ownership remained with the religious family, whenever the civil law did not prohibit the religious family from possessing those goods. In other words, by a certain abstract or sophistic way of speaking, Pomponius understood that the ownership of those goods belonged to him, acquired by him in order to help the Regulars according to the spirit of the Church (as he claimed), so that, unless the Church otherwise decided, with a civil authority having made a suppression that was invalid and null, those same Regulars might perhaps be considered as owners. Thus, Pomponius. With these and other similar arguments, the question was posed by the Regulars: "Whether the purchase and sale was made in favor of (Pomponius), or rather, in favor of the Fathers (the Regulars) in this case."

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RESOLUTION. The Holy Congregation of the Council, having knowledge of the case, on February 16, 1866, decided: negatively to the first part, and affirmatively to the second. The case being re-presented on May 25, 1867, the Holy Congregation maintained its previous decision, adding a clause and further considerations.

[*Latin ed. p. 137*]

SALE AND REDEMPTION. From these [points], we gather the following:

I. In the public and unjust inventory of Church goods that are put up for auction, it is possible for the same goods to be redeemed, provided that the conditions imposed by ecclesiastical authority are observed.

II. It is not illicit for the one who lawfully possesses Church goods to redeem them from his own hands, unjustly taken away by an unjust law, in another's name, provided that he avoids scandal by pretending to be a buyer.

III. In this type of transaction, it is necessary to seek out upright men, lest the legitimate possessor suffer double damage (1).

(I) To dispel the confusion that arose from the various actions undertaken between the Regulars and Sempronius, from which confusion neither the formula of doubt proposed by the Regulars seems to be immune, this contract of sale can be considered under three general aspects: 1. as a purchase by the Religious house, with the property, made by Sempronius in an auction, so that he might acquire those goods, without any authority to do so; 2. as a purchase with Apostolic permission, granted only for the purpose of avoiding censure, and to better safeguard the Church goods for the Church itself; 3. as a purchase considered under this second aspect, to which special agreements have been added.

Indeed, no one can acquire ownership of Church property by contract, unless the special approval of the Church itself intervenes; which is never granted, unless the contract has been carefully examined for fairness and a canonical reason is present. Therefore, the formula of doubt is not entirely free from a certain confusion, which presupposes that the purchase could have been made with the favor of Sempronius. Whatever agreement was made between Sempronius and the Regulars, Sempronius could never claim ownership of the property; moreover, from the numerous actions, it appeared that he was nothing other than the manager or procurator of the Regulars' affairs.

Considered under these three aspects, in the first case, Sempronius, besides invalidating the contract, would have incurred ecclesiastical censures; in the second case, he would not have incurred any censures, but would have simply been a custodian and administrator of the goods, who was obliged to preserve those goods with their fruits for the Church; in the third

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case, besides these, Sempronius was bound to observe the agreements that were made in favor of the Regulars or the pious cause, but he could never claim ownership.

Furthermore, since Sempronius has invoked the spirit of the Church, it is not out of place to remind him that this is the spirit of the one who, according to Revelation, chapter 19, verses 11 and following, is "Faithful and True and just, and he judges and makes war... and out of his mouth proceeds a sword to strike down the nations, and he shall rule them with a rod of iron, and he treads the winepress of the wrath of the God Almighty, and he has written on his garment and on his thigh, 'KING OF KINGS AND LORD OF LORDS.'"

[*Latin ed. p. 138*]

138 CONCERNING HONORARY CANONS. July 6, 1867. SUPPLICATING PRAYERS. —Most Blessed Father. "Since the number of Canons and Dignitaries in the Metropolitan Church of N. is insufficient, and the solemnity of sacred functions often requires more, it is necessary to provide for Honorary Canons, who would assist the titular Canons. Therefore, I have decided to submit the following questions to the Sacred Congregation for resolution: I. "Can the Archbishop, by his own authority, appoint Honorary Canons, and also assign this honor to certain offices, such as Professors in the Seminary, Parish Priests, etc., or rather, must he do this with the consent or advice of the Chapter? II. "Can Honorary Canons sit in the choir before or after the titular Portionaries and Semi-portionaries, and are they permitted to minister as Deacons and Subdeacons, yet are they nevertheless members of the Chapter? III. "Must Honorary Canons wear sacred vestments in pontifical functions, and must they prepare a Planet or, rather, a Dalmatica, or a Tunicella?"

RESPONSE. July 6, 1867. The Sacred Congregation, in accordance with other resolutions issued on similar matters, believes that the proposed questions should be answered as follows: To I. Negatively to the first part, affirmatively to the second. To II. Affirmatively, after all Portionaries and Semi-portionaries, to the extent that they are also counted among the Canons and sit in the choir in the same rank as the other Canons. To III. If the Chapter members are distinguished by orders, namely, the presbyteral, diaconal, and subdiaconal orders, then Honorary Canons must wear a Tunicella; otherwise, they must wear the same vestment common to all titular Canons of any order.

FROM WHICH IT MAY BE GATHERED: I. Honorary Canons, who in the present age contribute to the increase of divine worship and to the adornment of the Bishop's council in many churches...

[*Latin ed. p. 139*]

OF HONORARY CANONS. 139. Are canons instituted, created by the

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Bishop with the consent of the Chapter? Or, conversely, by the Chapter with the consent of the Bishop? (1) Regarding honorary canons, who are created in many Chapters of different regions, especially in Gallia, in our time, there are certain traces in Canon Law; in this matter, one may consult Fagnanus in Chapter 25 of *Dilecto filio*, concerning Prebends. There, Fagnanus mentions supernumerary canons, stating in numbers 23 and following: "It is not doubted that canons, with the consent of the Bishop, and the Bishop, with the consent of the Chapter, may increase the number of canons...." Especially, "such an increase benefits the Church, for it is in the Church's interest to have more advisors and defenders and ministers..." This is supported by a decision issued by the Sacred Congregation of Councils, namely, that the Bishop may create supernuemary canons, provided that they have no right to a vacant prebend, nor may they claim such a right from such a creation. Furthermore, the same author, speaking of honorary canons in chapter 19 of the same title, number 9, says that not many should be received in this manner, lest it tend towards a disgrace to the Church. Nevertheless, honorary canons, who are flourishing in our time, differ from those supernumerary canons mentioned in the law. Indeed, honorary canons of our time are nothing other than empty titles, as Fagnanus calls them in the aforementioned work, number 10. These are canons to whom nothing is lacking except a canonical prebend; therefore, because of the circumstances of the place, canonical prebends are either lacking or few in number, so it is necessary to invite others without a prebend to augment the Bishop's council; or, because, according to the anomalous laws of our time, few pensions are assigned to canons by the civil government, after subtracting those due to the Church. The institution of honorary canons must be reconsidered because of the needs with which the Church is afflicted in the present age due to the confiscation of goods by the governments. Given this need, the Church is forced to find other ways to help itself, so that, according to the ancient customs of the Church, the Bishop may have his honorable council. But when a new institution arises, new laws must be determined to govern that institution. Such laws do not yet seem to exist; for the duty of canons is not limited to the celebration of the divine offices, but canons perform two other most noble duties: one is the administration of the affairs of the diocese under the Bishop and with the Bishop, of whom they are also called advisors; the other is jurisdiction, which devolves upon the Chapter in the episcopal seat, either by law or by fact, when the Bishop is absent. Therefore, it may be asked what part honorary canons have or can have in such additions when titular canons are lacking. Regarding this matter, since the laws are silent, it does not pertain to us to say. From this newly arising institution, everyone perceives how easy it is in human affairs to return to the beginnings of things; for, because of the present condition of human society, that is, because of those who govern Christian society, the Church gradually falls into a state in which it

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was in former centuries, and a similar discipline, under various names and in various aspects, gradually arises, similar to that which was in vigor in the infancy of the Church; so that, as in former times, the Bishop, with the clergy,

[*Latin ed. p. 140*]

140 CONCERNING HONORARY CANONS. I. These honorary canons shall have a place in the choir behind the titular canons, whatever name these may be called by. II. They shall wear the vestments which the last titular canons wore, so that they may have a distinct garb according to their order. CONCERNING THE POWER TO NOMINATE A PAROCHIAL PRIEST BY REGULAR CANONICS ILLEGITIMATELY SUPPRESSED. On January 8, 1867. SUPPLICATING PRAYERS. The General Procurator of the Congregation of Regular Clerics N. N., which, attached to certain houses, has hitherto exercised the care of souls through one of its members, by presentation made by the Superior, according to custom, and by the acceptance of the Ordinary, humbly explains that, after the general decree of suppression issued by the Italian Government, certain episcopal curias have raised doubts concerning the rights which may pertain to the Religious of said Congregation with respect to the parishes which they possess within the territory subject to said Government; therefore, it is requested: I. Whether Regular parish priests can and ought to remain in their own parochial positions without any new act of nomination and designation. II. If any of these Regular parish priests should be lacking, whether the right of the superiors of the Institute to present an Ordinary with one of their own religious in the same manner and with the same form, previously observed, can be maintained, assuming that he can serve in the same place for the cathedral church, especially assigned to his duties. It would indeed be surprising, in the present circumstances, if the ancient jurisdiction of the archdeacon or archpriest, which the Church has gradually abolished for grave reasons, especially through the institution of a General Vicar removable at the will of the Bishop, were to revive little by little. But that jurisdiction, under a different name, revives when the office of the General Vicar is connected with some canonical benefice, or if the benefice is lacking, the General Vicar nevertheless presides as one of the clergy, especially in the cathedral.

[*Latin ed. p. 141*]

CONCERNING THE POWER TO NOMINATE A PAROCHIAL PRIEST, ETC. 141. Does the ecclesiastical service of a small religious family, even if, less formally, it is recognized as a moral entity by civil administration, or at least as an association under common law which admits of freedom of association?

RESPONSE. "On January 8, 1867, the Sacred Congregation of Religious

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of the Holy Roman Church, with the Cardinals of the Council of Trent as interpreters, responded as follows to questions 1 and 2: Affirmative, provided that, in particular cases, especially concerning new nominations or the presentation of parochial priests, the Superiors Regular, after due deliberation, consult beforehand with the respective local Ordinaries."

FROM THIS, IT CAN BE GATHERED:

I. Although a religious family, dissolved by force, and with its cessation, consequently ceases to exercise the rights which belonged to it as such, nevertheless, if that same family, in some way, continues to exist, those rights do not cease which may be inherent in the state in which that same family is found, due to the violence.

II. Suppression, indeed, carried out by an illegitimate power, of itself, produces no legal effect, although, by accident, the exercise of rights may cease; it is necessary that the violent dissolution be the cause of the cessation of the rights which belonged to the subject.

III. It does not present an impediment that does not, in law, produce an effect, Reg. iuris 52, n. 6.

[*Latin ed. p. 142*]

142 FROM S, THE CONGREGATION OF BISHOPS AND REGULAR CANONS, CONCERNING BENEFICIAL PROPERTIES. February 1, 1867. Summary of the case. Titius, in his will, drawn up in the year 1654, ordered that an altar be erected in the church of N. under the title of Saint Anthony of Padua, and that Mass be celebrated there on each weekday, assigning "an annual alms of 43 scudi to be paid from the revenues of his inheritance." He entrusted the execution of this last will and testament to his brother, who, however, in the year 1656, not entirely following the words of the aforementioned will, ordered in his own will the erection of a simple Benefice, and reserved the right of patronage to his heirs and descendants, leaving the Ordinary to confirm the chaplain. From his own goods, he assigned to the chaplain the same annual revenue of 43 scudi, with the same obligations that Titius, his brother, had prescribed. After some controversies arose, this intention was not fully realized until the year 1751, when, with a legal assignment of property that guaranteed the annual revenue of 43 scudi, a decree for the erection of the Benefice was issued by the Curia. What is most noteworthy is that, in the designation and separation of the properties, a certain property called Beccavamo was not included, which, according to the terms of a lease, yielded an annual revenue of 22 scudi. A certain Gaius, descended from the same family, was appointed to this simple Benefice in the year 1774, who held the Benefice for almost 60 years, and who died in the year 1831. Among the assets of this Benefice, the aforementioned property called Beccardino was found. Then,

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another priest was appointed to the Benefice, and among the assets of the Benefice he also possessed the same property: this fact was also noted in the third appointment that occurred in the year 1854, which appointment was made by a woman named Agnes, from the same family, who survived with her sister.

[*Latin ed. p. 143*]

CONCERNING BENEFICIAL PROPERTIES. 143 When Agnes, who, after the death of her sister, remained the sole survivor of that family, found herself reduced to poverty, she moved the Most Holy Lord with fervent prayers, in which, among other things, she requested that the property of Beccavamo be restored to her, since this property had not been included among the assets of the Benefice in the year 1751; and she asserted that, among certain properties, it was found that she, as the sole surviving heir, was the rightful owner. After hearing the account and the petition of the supplicant, and after proper notification to the Beneficiary and others, the matter was brought before deliberation, and the following question was raised.

A Synopsis of the Deliberation. Against the petition of Agnes, it was argued, among other things, that even if it were established that the property of Beccardino had not been included among the assets of the Benefice, the petitioner should have conclusively demonstrated that said property belonged to the family of Titus. Indeed, even if this were shown, there would still remain the presumption that the property had been given to the Benefice, either tacitly or expressly; to which must be added the long-standing possession, by which, without any contradiction, it had been considered as a property of the Benefice up to the present time.

In favor of Agnes, it was argued that it is established by fact that, before the year 1751, when the Benefice or Chapel was endowed, said property was not found among its assets; therefore, if at that time the property did not belong to the endowment of the Benefice, it could not have belonged to anyone except Caius, a descendant of the same family, who held the Benefice in the year 1754, and retained it for 60 years; and it is no difficult thing to suppose that the property of Caius was mixed with the properties of the Benefice, and then considered as part of the endowment of the same Benefice. Moreover, if it is not permissible for anyone to enrich themselves with another's property, it is much less permissible for the Church to do so. With these and other considerations, the question to be resolved was: "Whether and in what manner assent should be given to the prayers of the petitioner... for the free restitution of the property of Beccardino... in this case."

RESOLUTION. — The Holy Congregation of Bishops and Regular Canons, having carefully considered the matter, decided on February 1,

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1867, to respond affirmatively.

[*Latin ed. p. 144*]

144 CONCERNING BENEFICIAL PROPERTIES. Regarding the restitution of the property of Beccardino: concerning the fruits of said property, up to the notification of the Beneficiary's petition presented to the Holy Congregation, the decision shall be negative in all respects, considering good faith. As for the subsequent fruits, there is a place for restitution, namely, in the sum of twenty scudi, justly and equitably. FROM THESE, ONE MAY GATHER: I. That just as the Holy See wishes inviolably to preserve those goods which, with the most ardent will of the faithful, have been left with attached pious burdens for the Church, so it utterly abhors retaining those goods which it does not know to have been legitimately left to the Church. II. In the restitution of another's property, which has been possessed in good faith, justice does not demand that the fruits received from it, for the sustenance of the honest possessor, be restored. III. Nevertheless, those same fruits must be restored, whenever bad faith begins, that is, from the time that the property in question becomes the subject of litigation, with the aforementioned fruits justly and equitably assessed (1). (1) The equity of these principles was known among the ancient wise men; thus it is written in the Institutes, book 2, title 1, section 35: "If anyone buys goods or a property from one whom he believes to be the owner, or receives them by donation or by any other just cause, in good faith, then by natural reason, the fruits which he receives are his for cultivation and care; and therefore, if afterwards the true owner appears and claims the property, he cannot demand restitution for the fruits consumed by him. But to those who possess another's property knowingly, the same concession is not granted; and therefore, even if the fruits have been consumed, they are obliged to restore both the property and the fruits."

[*Latin ed. p. 145*]

145 CONCERNING AGREEMENT. May 6, 1864, and April 27, 1866. In this case, which concerns a matter of fact, and in which the resolution was imminent, an incidental question was raised by the collectors of the Royal Chamber, known as the "Spoliorum," regarding the matter. We refer this incidental question, indicating only the principal cause. Summary of the facts. Chapter N., having obtained the faculty, granted certain lands for a term of years, according to a statutory canon, to a third generation. However, these same lands or properties were subject to a servitude of grazing in favor of the local community. An agreement was made that, whenever these lands were freed from such servitude, the right of grazing would pass to the benefit of the Chapter, so that in this case, a just increase in the canon would be due from the tenant for the benefit of the Chapter. Indeed, in the year 1849, the tenant legally freed a portion of

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these lands from that servitude, although without informing the Chapter. However, according to the agreements made, the increase in the canon should have been paid. Therefore, the parties did not immediately agree, and the question was therefore presented several times before the Sacred Congregation of Bishops and Regular Canons. Finally, in the year 1863, both the Chapter and the tenant agreed upon a certain increase in the canon, and the Chapter forgave the tenant the fruits received from the tenant from the year 1849 up to the year 1863, which had not yet been paid. The articles of this Agreement were presented before the Sacred Congregation under the question: "Whether and in what manner the agreement of July 9, 1863, should be approved." The Sacred Congregation responded on May 6, 1864: "Affirmatively, in all respects, so that the redemption of the right of grazing is understood to be made in the name and for the benefit of the Chapter." After this resolution was issued, the collectors of the Royal Chamber, Spoliorum, protested against the forgiveness granted by the Chapter to the tenant, arguing that the fruits received from the tenant from the year 1849 to the year 1863 belonged to the Royal Chamber, Spoliorum; and therefore, they implored that, given the aforementioned resolution, Volume III, page XXVII, paragraph 10.

[*Latin ed. p. 146*]

146 CONCERNING AGREEMENTS. The following words were added: "with due regard to the rights of the Holy See, the collection of arrears is to be made according to the provisions of *Praebendis* concerning which we are speaking, from the year 1849 to the year 1863." The discussion is "synoptic." THE RIGHTS WHICH THE COLLECTORS CLAIMED IN FAVOR OF THE HOLY SEE. — The Collectors maintained that the Chapter had not made a decision regarding something that was not its own, that is, concerning the aforementioned arrears which the *Emphyteutae* had not paid: they asserted that the fruits of any benefice, from the day of the death of the beneficiary until the day that the person who receives the benefice takes possession, belong to the Holy See or to the Holy See's Chamber of Arrears, which collects these fruits in order that they may be used for the needs of the missions for the propagation of the faith. To support this, they cited Pontifical Constitutions, specifically the Bull of Pius IV, *Cupientes malitiis hominum*, dated April 25, 1561, in which this was stipulated: "All and each of the fruits of all ecclesiastical benefices, with or without cure, and of any kind of regular order, in the parts of Italy in which Collectors and Sub-collectors of the Arrears and rights of the Apostolic Chamber are accustomed to collect, from the death or any other cause for the time being vacant, until the day of their vacancy, for the proportionate time until the day of the provision or appointment of those same benefices by us, we reserve, apply, incorporate, and appropriate to the same Chamber, and we declare that these shall be reserved, applied, incorporated, and appropri-

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ated to that Chamber, and that they shall pertain to it." Also, Sixtus V established by Apostolic Letters with the Fisherman's ring, on January 1, 1589, which are cited by Charles Gagliardi in *De Benef.*, chapter 61, section 18, where it is written: "All and each of the fruits, revenues, and proceeds of any benefice, for each month for the time being vacant, whether pending or matured, and even those that are not yet separated from the principal, or those that have not yet been collected, and also after the death of those who possessed them, until the day that the successors take possession of said benefices, in proportion to the time, are to belong to Our Chamber, and we wish and decree that these shall be applied to the same Apostolic Chamber."

[*Latin ed. p. 147*]

ON CONCORD. 147 To these Constitutions, they added the doctrine of the authors, as taught by Lewis of Valle in *Practices of the Apostolic Collector*, part 2, chapter 1, where he states: "When churches and benefices are vacant by death," the fruits, revenues, and all other emoluments which pertain to the church and its successor, "from the day of death until the day of the acquisition of possession, belong to the Apostolic Chamber, which succeeds in the place of the church and its successor," as is expressly stated in the Apostolic Constitutions of Paul III, in the year 1537; of Julius III, in the year 1554; and of Gregory XIII, in the year 1567. Also, Vincent Filliucci, in *On the Spoliation of Clerics*, chapter 6, paragraph 5, and Aloysius Panimoll, in *Decisions*, 20, addition 2, paragraph 5, state: "The fruits, whether pending, uncollected, or collected, from the day of the vacancy of the benefice, by ancient law, belong to the church or to the successor until the legitimate provision and actual possession." By the new law, in places where Apostolic Collectors are present, these are received by the Chamber, according to the Constitution of Julius III, which is the foundation of the Chamber in these matters, and according to another Constitution of Gregory XIII, and according to the Constitution of Sixtus V, issued on January 1, 1589. Also, the Decisions of the Sacred Rota, and specifically in the *Asculana Restitutionis* of June 25, 1832, before De Silvestris, § i, which were appropriately established and explained from civil laws, namely, *On Usufruct* and *Institutes*, book 2, title 1. In accordance with these, Julius III, in his *Motu Proprio*, declared and determined: "Until the beneficiaries actually collect these sums and receive the fruits, and do not mix them with their other goods and incorporate them into themselves, they must always be considered and should be considered as belonging to the churches of which they are beneficiaries, and as truly ecclesiastical." And the same Pontiff adds that the Cardinals cannot dispose of these, although this does not prevent them from collecting the fruits; thus, he continues: "The fruits, sums, and other things which, through the death of the beneficiaries, bishops, archbishops, patriarchs, and other prelates and cardinals, have not

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been collected, even if they are due for a time before their death, and the day of their payment arrives while the beneficiaries and cardinals are living, and are not collected by the beneficiaries and cardinals..."

[*Latin ed. p. 148*]

I 4<8 CONCERNING AGREEMENT. They [the officials] would strive to ensure that those [owing debts] were not excused; indeed, they would take all necessary diligence to collect, even acting judicially if required, in order to obtain what was due, etc. With these provisions established, the Collectors concluded: "Since there are Collectors of the Royal Treasury in the city of N., and since the fruits from the redemption of the right of pasture from the year 1849 to the year 1863 have not been collected, and since ten Canonicates, either through death or resignation, have become vacant in the meantime, these uncollected fruits pertain to the Royal Treasury; therefore, it was in vain that the Chapter made arrangements regarding them, by granting them to leaseholders, since they disposed of something that was not their own: For no one can transfer to another more right than he himself has, I. 120 ff. on the subject of Royal Law. Also, 'That which is ours, without our act, cannot pass to another,' I. 30 ff. of the same title."

With no less learning, the same Collectors rejected the objection presented to them, saying: "It cannot be said that in the present matter we are dealing with fruits derived from Canonicates belonging to the common fund, in which case the exercise of rights pertaining to the Royal Treasury would not apply." To which they responded: "For that is false, both in law and in fact."

Indeed, it is false in law; for Canonicates are truly and properly said to belong to the common fund only when they are not subject to the Royal Treasury, when they do not have their own endowments, and when those endowments are not subject to forfeiture. For the administration of canonical endowments, which is usually done for the better distribution of resources, does not mean that those Canonicates contribute to the common fund.

However, the Collectors understood the Canonicates to belong to the common fund only in those churches that are not numbered or are called "receptive," as described by Lotter in *De Beneficiis*, I, question 14, number 14, and by Berardi in *Commentaria Iuris Ecclesiastici*, volume 1, dissertation 1, on Benefices, chapter 3, where he states: "Generally, benefices are considered to be those which are conferred upon clerics in those cathedrals or collegiate churches in which the number of endowments is not determined, and therefore, more or fewer are demonstrated according to the will of the Bishop or the will of the Chapter, argument 1, chapter 25 on Endowments, chapter 9 on Constitutions, and chapter last on Concessions of Endowments, in 6."

"In these churches which are called 'receptive,' because so many clerics

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are received in them as are possible."

[*Latin ed. p. 149*]

ON AGREEMENTS. 149. According to added or modified agreements, benefits are considered to belong, not to all, but to individual members of the clergy, so closely are these benefits linked to the person of the cleric, that, in a certain way, they are intertwined with that person; hence, when a cleric who holds a benefit dies, it is said that the benefit does not properly become vacant, but ceases.

Furthermore, they demonstrated that, in Chapter No. [unspecified], there were twelve canonical prebends, and two dignities, each prebend being administered by a canon in his own favor, except for a certain revenue from grain (which is the object of the present cause), which was collected by the canon treasurer; indeed, these collectors maintained that this revenue could not constitute the common Mass offering.

Turning to the facts of the case, they sought to demonstrate that the Chamber of Spoils had exercised its rights from ancient times regarding the revenues and fruits pending from vacant canonries, and indeed, even regarding the aforementioned revenue from grain.

WHAT THE CHAPTER REPLIED. In a few words, the Chapter responded to the arguments presented by the collectors, stating that the canons had always been pleased to increase [their revenues], so that the revenues were not collected from canons who were present; nor had the collectors of spoils ever encroached upon the rights of the Chapter in cases of vacancies; and that if, at any time, they had attempted to do so, they had been repulsed by law.

With these arguments presented in the incidental cause, the purpose was to resolve a doubt: "Whether and how should one depart from the resolution reached on May 6, 1864, and July 28, 1865, in this case?"

RESOLUTION. On April 27, 1866, the Sacred Congregation of Bishops and Regular Canons, after again discussing the case, decided: "In the decisions and further, and with the understanding that, except for the fruits that have accrued, the rights of the Royal Chamber of Spoils are preserved, as and to the extent that they are by law."

[*Latin ed. p. 150*]

150. CONCERNING HARMONY. From these, the following may be gathered:

I. Beneficiaries in ecclesiastical goods, which the faithful leave to the Church for divine worship, are to be considered as usufructuaries; and the orderly and supreme administration of these goods pertains to the entire Church, or to him who, as Christ's Vicar, governs the universal Church.

II. Therefore, when the legitimate possession of a Benefice ceases, all its

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fruits may be yielded either for the benefit of the particular church to whose worship they are immediately destined, or for the benefit of the successor, who will legitimately hold the Benefice, or for the benefit of the universal Church, as has been determined by the supreme authority, or as has been established by legitimate custom, according to the circumstances of the place and time.

III. By common law, such fruits belong to the church of the same Benefices when they are vacant, or to their successors (1).

IV. When utility and necessity require it, such fruits, especially from various places, particularly from Italy, have been ordered by the Most Holy See, through appointed collectors, to be used for the benefit of the Holy Missions.

(i) It will not be out of place here to recall chapter 9 of the "Officiorum Ordinarum," section 6, in which it is shown to whom, by common law, the fruits of vacant Benefices are to be applied; which may also shed light, perhaps, on those who, under certain conditions, have acquired ecclesiastical goods in Italy from public officials: for they will know what the Church has determined concerning the fruits of Benefices that are without their Rectors. The following is the text of this provision: "By the present decree, We prohibit Bishops, or their Superiors, or Abbots, or any other regular or secular prelates, or ecclesiastical persons whatsoever, from occupying or converting to their own use, in any way, the goods (whether found in them upon the death of their Rectors or Ministers, or becoming available at the time of their vacancy) of vacant dignities, personalities, priories, or churches, or any other offices subject to them, or pertaining to their collation, ordination, presentation, or custody, which are to be faithfully reserved for the use of the same, or for future successors; unless it is legitimately determined by a special privilege or custom already prescribed, or by some other reasonable cause, that this pertains to them; otherwise, Bishops and their Superiors shall be excluded from the entrance of the Church; and others shall be suspended from their office and Benefice until they make restitution. Furthermore, when anyone asserts that the aforementioned goods pertain to him by privilege or custom, or by some other reasonable cause, this should be understood only of those goods which, after debts have been paid, if any, and after those which have been necessary for the support of servants and ministers, and for the burdens incumbent upon them, until new revenues are available, have been duly reserved from the aforementioned, remain over..."

[*Latin ed. p. 151*]

ON AGREEMENTS. 151 Y. Furthermore, among the fruits of a vacant benefice, the fruits pending at the time of the beneficiary's death or resignation are included (1), to which are also equated the uncollected revenues. V. I. S. The Congregation, after omitting discussion regarding

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the rights of the Royal Chamber of Forfeitures, considered that, from several concurring opinions, it had sufficient grounds to judge that, if any such rights existed, they ceased in the present case, that is, after said agreement was finally concluded. FROM THE HOLY PENITENTIARY, FACULTIES GRANTED OR DECLARED TO REGULAR CANONS IN ITALY, DESPITE SUPPRESSION. On April 18, 1867. "Although, through letters dated June 28 of the past year, the Holy Penitentiary has issued several declarations and granted faculties, by which Regular Canons of both sexes residing almost throughout Italy could, in some way, be relieved from the hardships and calamities into which they were cast by the law of suppression: it has nevertheless been found that other anxieties have arisen, and other needs have been born, which can only be addressed by Apostolic authority. For, since the aforementioned Regular Canons are driven from their own houses, and, bound by solemn vows, are compelled to wander, many are troubled by doubts regarding obedience due to their Superiors, and to the local Ordinaries. Furthermore (1) This right is in accordance with the imperial law, as it is written in the Institutes, book 2, title \ § 36: "He to whom the usufruct of a property belongs, is not considered the owner of the fruits, unless he himself receives them; and therefore, even if he dies before the fruits have matured, they do not belong to his heirs, but are acquired by the owner of the property."

[*Latin ed. p. 152*]

152. The regular orders in ITALIA, etc., experienced considerable anxieties concerning the privileges and spiritual goods with which they abundantly enjoyed within their religious houses. Stripped of all their possessions, and in the miserable condition in which they found themselves, they did not easily see a way to provide for their needs. Therefore, Our Most Holy Lord Pope Pius IX, pitying the misfortunes of so many members of both religious orders, ordered that the Sacred Penitentiary should assist these orders with new declarations and new apostolic graces. Therefore, the Sacred Penitentiary, gladly obeying the mandates of His Holiness, decrees the following:

I. It is to be ensured, as has already been stated concerning the nuns in the aforementioned letters of June 28, 1866, under n. 7°, that the religious who have been expelled from their own houses, especially the professed clergy, insofar as they cannot be received into another monastery, should gather in a designated house, to be indicated by their Superiors, and there they must not fail to observe the rule which they have professed, as best as possible, with the prohibition of leaving without due permission.

II. It is also to be ensured that the religious who are forced to live outside the cloister and the aforementioned houses, as if secularized for a time, remain faithful to their vocation and, as best as possible, fulfill the solemn vows with which they have dedicated themselves to God. Therefore, the

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Sacred Penitentiary declares to all Superiors of the regular orders that their jurisdiction over their subjects, even those living outside the cloister, has not at all ceased. For although each religious living outside the cloister, with regard to ecclesiastical discipline and governance, is exempt from the jurisdiction of the Ordinary of the place where he resides, nevertheless, with regard to regular discipline and the obligations which arise from their religious profession and which are compatible with their new situation, they are bound to be subject to and obey their own Superiors.

III. It is decreed that the aforementioned houses, provided that at least three religious reside there, of whom at least one is a priest, shall be subject to the jurisdiction of the Provincial Minister, and shall be governed by a special Superior to be appointed there.

IV. It is permitted that in the same houses, provided that at least four priests of the regular orders reside there, a [church] may be established, with the legal [privileges] observed.

[*Latin ed. p. 153*]

FACULTIES FOR RELIGIOUS ORDERS IN ITALY, ETC. 1 53, concerning the preservation of a private oratory. Before a private oratory is established, it must first be visited and approved by the Provincial, or by another suitable person appointed by him, so that in it, Masses may be celebrated by Religious priests, the Most Holy Eucharist may be reserved, and that only Religious and Oblates may receive Holy Communion and fulfill the precept of hearing Holy Mass. V. "Furthermore, it is granted that the Religious may enjoy all the Holy Indulgences granted and assigned to the houses or churches from which they were expelled, in the aforementioned oratories, according to the form and within the time specified in the Apostolic concessions and grants; but so that the aforementioned Indulgences are considered to continue, as before, in the churches of the Order itself, to which they were attached and assigned, as long as a priest of the same Order, with legitimate authority, is placed in charge of those churches. V I. "Moreover, it is declared that the privileges of the Superiors of Religious Orders remain fully in force, with regard to the use of the particular blessings of their own Order, and likewise that all and each Religious, of both sexes, even those living in the world with legitimate permission, retain fully the Holy personal Indulgences granted to them by the Holy See, and not revoked. V I I. "Furthermore, it is decreed that Religious women expelled from their convents, although exempt, and even those transferred to new houses according to the Letters of July 28, 1866, are entirely subject to the jurisdiction of the Ordinary of the place in which they reside. VIII. "To the Ordinaries of places, it is granted to grant to these Religious women residing in new houses, at their discretion, the Indult of a private oratory, so that, with the due observances, Mass may be celebrated daily in the aforementioned oratory, and the Most Holy Eucharist may be

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reserved there, and that the Religious, postulants, novices, and those being educated, and other women residing in those houses, may, in addition to serving at Mass, receive Holy Communion and fulfill the precept of hearing Holy Mass. I X. "Furthermore, to these Religious women is granted the privilege, as was granted to Religious men above in n. V.; that is, to enjoy in the aforementioned oratories all and each Holy Indulgences that were attached or assigned to the church or monastery from which they were expelled.

[*Latin ed. p. 154*]

154. CONCESSIONS TO THE REGULAR CANONS IN ITALY, ETC. X. "It declares and ordains that, even though the Regular Canons are suppressed, and even if they reside outside of the aforementioned houses, they are permitted to fulfill the canonical hours according to the calendar of their own Order, and, notwithstanding the lack of a sacred office, to exercise their Order and to celebrate Mass in any church, with the permission of the local Ordinary, according to the rite of the church in which they happen to celebrate; provided, however, that if they celebrate in their own church, the custody of which has been legitimately entrusted to at least one of their confreres, or in any of the aforementioned chapels of their Order, they shall observe the rite of their own Order. XI. "Furthermore, it declares that nothing prevents the suppressed Regular Canons from making use of the faculty that has already been granted to them by the local Ordinary to hear the confessions of the Christian faithful; provided, however, that this faculty has not expired, or has not been revoked by the same Ordinary, and provided that they use it only in those places for which they have been approved. XII. "It grants to the Superiors General, and also to the Provincial Superiors, the faculty, either by themselves or through other suitable religious men appointed by them, to grant to the suppressed Regular Canons of their Order, that, during the present circumstances, any Regular Canon or Secular Canon, provided that he has been approved by the local Ordinary, may choose a confessor from whom he may also, as far as necessary, be absolved from sins and censures reserved in their own Order, and to receive the grace of a dispensation in foro conscientiae alone, regarding any irregularity contracted through the violation of those same censures, provided that it remains hidden. XIII. "It further declares that any suppressed Regular Canons, whether residing in any house, as per n.° 1, or living temporarily outside religious houses as if secularized, are permitted to perform their sacramental confessions with confessors of their own Order, legitimately approved by their Prelate. XIV. "It grants the same Superiors General the power, as long as the present circumstances continue, and until the Holy See shall otherwise deem it fitting, to reconfirm them in their office, after the inferior Superiors have fulfilled their duties, in consultation with their Definitorium, and to replace them with

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others, as they may judge to be more expedient in the Lord."

[*Latin ed. p. 155*]

FACULTATES REGULARIBUS IN ITALIA ET CETERIS LOCIS, ANNO MDCCLXXXV.

XV. Clericis Regularibus iam solemniter professis conceditur, ut ad titulum paupertatis, aut ad alium titulum proprii Instituti, ad S. Ordines ab Ordinario Loci, in quo domicilium habent, aut ab alio Episcopo cum dimissoriis litteris ab eo datis, de consensu proprii Superioris Regularis, et servatis de iure servandis, promoveri, et in Ordinibus sic promoti ministrare valeant, donec a proprio Ordine seu Instituto legitima ex causa dimissi non fuerint.

XVI. Concedit pariter Regularibus solemniter professis, ut Capellanías, aut unum dumtaxat Beneficium Ecclesiasticum, etiam residentiale, vel cum cura animarum, de consensu et ad nutum Ordinarii Loci, ac annuentibus Superioribus suis, in administrationem assequi, et retinere legitime possint, quod tamen dimittere teneantur statim ac ab iisdem Superioribus ad claustra revocati fuerint.

XVII. Facultatem concedit locorum Ordinariis quoad Moniales, et Superioribus Generalibus quoad Viros Regulares, indulgendi sive per se, sive per idoneas personas ab eis subdelegandas respectivis subditis in ITALIA suppressis, ut, attentis peculiaribus circumstantiis, iisque perdurantibus, non obstante solemni paupertatis voto, bona sibi legitimo iure spectantia, ac etiam hereditates, salvo tamen iure Tertii quaesito, recipere, adire, ac retinere, deque iis nedum contractus inire, sed etiam in pios, honestosque usus, ac praesertim in favorem sui Ordinis, aut Instituti, nec non in grati animi significationem per actus sive inter vivos, sive causa mortis disponere valeant, accedente ipsius Ordinarii, aut Superioris, vel alterius per eum Deputati, aut saltem, in casu necessitatis, Confessarii consilio et approbatione; ita tamen, ut rerum suarum administrationem ac redditus, quamdiu vixerint in Communitate, quae temporalia bona possidere possit, eidem Communitati tradere, et quidquid ex bonis propriae Religionis eidem provenerit, ipsi Religioni, adhibitis cautelis, relinquere teneantur. Quod si Communitas sit ex iis, quibus possessio bonorum temporalium permissa non sit, administrationem hoc in casu committant alicui Tertiae personae ita, ut absque licentia Ordinarii aut Superiorum Regularium nihil de fructibus sibi applicare, aut quocumque modo disponere possint.

[*Latin ed. p. 156*]

156. CONCESSIONS TO REGULAR CANONS IN ITALY, ETC. XVIII. "To all and each Regulars, of both sexes, who have been suppressed, it is

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granted that they may, with the lawful title acquired, and with the permission of their Superiors, and, in the case of Nuns, with the permission of the Ordinary of the place, prudently invest their money in honest and lawful ventures, either in their own name or through interposed persons; nevertheless, with this condition, that the Regulars, living in community, shall be obliged to transfer the titles and revenues of said monies to the same community, or to some third person, as mentioned above, and that they shall not, in any way, dispose of them without the permission of their Superiors, or of the Ordinary himself. XIX. "Finally, it is declared that the foregoing concessions are to be understood as granted without any prejudice to any general or special Indult granted by the Holy See to any Order or person, and that the foregoing concessions shall not in any way impede the Constitutions, and all other things, even those worthy of special mention, of any Order, Congregation, and Institute, which may be contrary to them. "Given in Rome, in the Sacred Penitentiary, on the 18th of April, 1867. A. M. Cardinal PANEBIANCO, M. P. L. Peirano, S. P., Secretary.

FROM THIS, THE FOLLOWING CAN BE GATHERED:

I. The essence of a Regular Canonry does not consist in that manner of living by which Regular Canons are obliged to live under one and the same roof, and under one domestic discipline (1).

II. However, this pertains to the integrity of the religious order, which integrity, if forcibly ceased, causes the privileges granted in view of that same integrity to cease or to be suspended (2).

III. However, if the essence of the Order remains, the Holy See, according to the circumstances, may assist the Regular Canons in need and may confirm those privileges which, in some way, are suitable to the situation in which the Regular Canons are found, due to the violence suffered. (1) Recall what we have written in Vol. II, page 309 and following (?). Here, more could be recalled from what we have hitherto presented in our publications.

[*Latin ed. p. 157*]

157 FROM THE SECRETARY'S OFFICE. Letters in the form of a Brief, by which the Most Holy Lord Pope informed the Archbishops who had come to Rome to celebrate the centennial of the feasts of the Holy Apostles Peter and Paul, among the Archbishops present at the papal throne. POPE PIUS IX, FOR FUTURE MEMORY. "On that most auspicious day, when, in the year 1800, the Blessed Apostles Peter and Paul shed their blood for Christ, consecrating Rome with their blood, we have deemed it fitting to increase the joy of this most blessed day by bestowing honors upon certain heroes of the Christian Religion, the Saints of Heaven. We greatly desire that this celebration be graced by the presence of so many Venerable Brothers, the

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Sacred Archbishops, who, showing the most studious devotion towards the person of Our humility, have most generously responded to Our invitations. Indeed, many of them, having received, through Our beloved son, the Cardinal Prefect of the Council of Trent, the decrees concerning the interpretation of the Holy Councils, have made it known to us that they would be most pleasing to us if, without any special pretext, and without detriment to the flock entrusted to them, they would come to the City to celebrate the aforementioned solemnities. Moved by reverence and piety towards the Blessed Peter, the Prince of the Apostles, they undertook the journey to the sacred shrines of the Apostles, undeterred by the length of the roads, the perils of the sea, or the difficulties of the times. We wish to publicly commend this example of outstanding piety through these Letters, and we earnestly beseech the Blessed Apostles Peter and Paul that they may strengthen the spirit and the strength of these men of such religion and such fortitude in the battles of the Lord. And in order that some testimony of Our favorable intentions towards these Venerable Brothers may be evident on this solemn occasion, We have come to the decision to honor them with some gift of pontifical generosity. Therefore, all and each of the Sacred Arch-

[*Latin ed. p. 158*]

158 BRIEF LETTERS: To the priests who will be present in the city on the next feast of the Holy Apostles Peter and Paul, and who are among those who are not yet included in the number of those present, we hereby include them in that number by means of these letters, and we admit them, granting them all and each of the privileges, faculties, and honors that belong to them by the benevolence of the Apostolic See, those who are adorned with this honor and office. Notwithstanding any constitutions, and Apostolic ordinances, and all other contrary things whatsoever. "Given in Rome, at Saint Peter's, under the Fisherman's ring, on the 17th day of June, 1867, in the twenty-second year of Our pontificate." IN. Cardinal PARACCIANI CLARELLI. Brief letters by which all Church prelates are granted the faculty to wear a violet-colored cap. PIUS, POPE IX. FOR PERPETUAL REMEMBRANCE. "While we, through the supreme office of the Apostleship entrusted to us by Divine Providence, diligently care for and are concerned about all the Churches, we are indeed comforted when we turn our eyes and our minds to the sacred order of bishops. For the sacred prelates throughout the world, our partners in the pastoral office, in this great difficulty of times, and in so many storms of evils in which the Church is tossed, exert all diligence and zeal in guarding the flock, in upholding the rights of the Church, and in instructing the Christian people entrusted to them in the precepts of divine law, so that, thus instructed, they may more easily turn away from evil and walk in the ways of the Lord. These, therefore, without making any distinction,

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oppose themselves as a wall for the House of Israel, and among them, not a few have suffered persecution for the sake of justice, and have given examples of their faith and fortitude. But with what devotion and zeal these Venerable brothers..."

[*Latin ed. p. 159*]

LETTERS IN BRIEF FORM. 189. We follow the most blessed See of Peter, in which the integrity of the Christian religion and perfect solidity are found, and to which, because of its superior primacy, the entire Church must necessarily gather. Countless signs of love and piety, even those recorded in print, and never interrupted prayers for its safety and exaltation within its dioceses, and the fervent zeal of the faithful, aroused by the hardships under which we are pressed, most clearly testify to its singular frequency in our city. Therefore, with the joy of all orders, because of the secular commemoration of the martyrdom of the holy Apostles Peter and Paul, which is solemnly celebrated, and because of certain heroes of the Church to be inscribed in the annals of the blessed, it is pleasing to Us to honor those venerable brothers in our pastoral ministry as partners and helpers, and to offer them a testimony of our good will and affection through some addition of honor. Therefore, by the authority of these letters, with all their force, We grant and concede to all and each Patriarchs, Archbishops, and Bishops of the Catholic Church, both present and future, that they may freely and lawfully use a purple-colored biretta from the first vespers of the upcoming feast of the holy Apostles Peter and Paul, notwithstanding any constitutions and Apostolic sanctions, and any other matters, however special and individual, that might otherwise be worthy of mention or derogation. Given at Rome, near Saint Peter, under the Fisherman's seal, on the 17th day of June, 1867, in the twenty-second year of Our pontificate. N. CARD. PARACCIANI CLARELLI.

[*Latin ed. p. 160*]

160 APOSTOLIC LETTERS. Following what we have said in Appendix I, page 62, we present here a most important encyclical letter, with the attached Syllabus of Errors, issued by the Roman Pontiff to the sacred prelates on December 8, 1864. TO THE VENERABLE BROTHERS, PATRIARCHS, PRIMATES, ARCHBISHOPS, AND BISHOPS OF THE WHOLE WORLD, GRACE AND COMMUNION FROM THE APOSTOLIC SEE. PIUS IX, POPE. Venerable Brothers, greetings and Apostolic Benediction. On December 8, 1864. "How diligently and with what pastoral vigilance Our Predecessors, the Roman Pontiffs, have always fulfilled the duty entrusted to them by Christ the Lord, in the person of Blessed Peter, the Prince of the Apostles, in the office and duty of nourishing the entire flock of the Lord, of nourishing it diligently with the words of faith and salutary doctrine, and of protecting it from poisonous pastures, this has

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been clearly demonstrated and made known to all, and especially to you, Venerable Brothers. And indeed, those same Predecessors of Ours, defenders and upholders of the august Catholic religion, truth, and justice, most concerned for the salvation of souls, have never desired anything more than to correct and condemn, through their most wise Letters and Constitutions, all heresies and errors which, opposed to the Divine Faith of our Church, the doctrine of the Catholic Church, the decency of morals, and the eternal salvation of men, have frequently stirred up storms, and have most lamentably harmed the Christian and civil commonwealth. Therefore, those same Predecessors of Ours, with constant Apostolic fortitude..."

[*Latin ed. p. 161*]

APOSTOLIC LETTERS. 161. By the machinations of wicked men, who, despising the confusion like the waves of a raging sea, and promising liberty, while themselves being slaves to corruption, with their deceitful opinions and most pernicious writings, have sought to undermine the foundations of the Catholic religion and of civil society, to remove all virtue and justice from among men, to corrupt all minds and hearts, and to turn the unwary, and especially the young, away from the proper discipline of morals, to corrupt them miserably, to lead them into the snares of error, and finally, to tear them away from the bosom of the Catholic Church. "Indeed, as you, Venerable Brothers, are well aware, We, scarcely having been raised to this Chair of Peter by the secret counsel of divine providence, not certainly by our own merits, when We saw with the greatest sorrow of mind a truly terrible storm stirred up by so many wicked opinions, and the most grievous and never sufficiently lamented damages which flow from so many errors to the Christian people, following in the footsteps of our illustrious Predecessors in the exercise of our Apostolic ministry, We raised our voice, and in several encyclical Letters published for the public, and in Allocutions delivered in Consistory, and in other Apostolic Letters, We condemned the most grievous errors of our age, and We aroused your episcopal vigilance, and We admonished and exhorted repeatedly all the sons of the Catholic Church who are most dear to Us, that they should utterly abhor and avoid such a terrible pestilence. And especially in Our first encyclical Letter written to you on November 9, 1846, and in two Allocutions, one of which was delivered by Us on December 9, 1854, and the other on June 9, 1862, in Consistory, We condemned the monstrous perversions of opinion which, especially in this age, with great harm to souls and to the detriment of civil society itself, are prevalent, and which not only oppose the Catholic Church, and its salutary doctrine and its venerable rights, but also the eternal natural law inscribed by God in all hearts, and true reason, and from which almost all errors originate." "Although We have not neglected to often condemn and reprove the most important

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of these errors, for the sake of the Catholic Church, and for the salvation of souls which has been divinely entrusted to Us, and for the sake of the whole..."

[*Latin ed. p. 162*]

162 APOSTOLIC LETTERS. The good of the community entirely demands that we once again stir up your pastoral concern to combat other pernicious opinions, which spring forth from the same errors, like streams from a source. These false and perverse opinions are all the more to be detested, because they aim above all to impede and remove that salutary power which the Catholic Church, by the institution and mandate of its divine Author, ought freely to exercise until the consummation of the ages, not only with regard to individual men, but also with regard to nations, peoples, and the highest princes thereof, and to remove from among them that mutual society and concord between the Priesthood and the Empire, which has always been beneficial and salutary for both sacred and civil affairs (1). Indeed, Venerable Brothers, you know that in these times, there are not a few who dare to apply the impious and absurd principle of naturalism to civil society, claiming that "the best arrangement for public society and the complete progress of civil life require that human society be constituted and governed without any regard for religion, as if it did not exist, or at least without any true distinction between true and false religions." And contrary to the doctrine of the Holy Scriptures, the Church, and the holy Fathers, they do not hesitate to assert that "the best condition of society is one in which the Empire does not recognize the duty of punishing, with sanctions, those who violate the Catholic religion, except insofar as public peace requires it." From this entirely false idea of the social order, they do not fear to foster that erroneous opinion, which Our Predecessor, Pope Gregory XVI, in his decree *Mirari vos*, called a delusion (2), namely, "that freedom of conscience, and the right to worship, are the proper right of every man, which must be proclaimed and asserted by law in every well-ordered society, and that citizens have the right to enjoy complete freedom, without any restriction by ecclesiastical or civil authority, to express their opinions in any way, whether by word, by print, or by any other means, and to make them publicly known." While they boldly affirm this, they do not consider that they are preaching the freedom of perdition (3), and that "if it is always permissible to dispute with human opinions..."

(1) Gregory XVI, Encyclical Letter *Mirari vos*, August 15, 1832.

(2) Ibid.

(3) St. Augustine, Epistle 105, also 166.

[*Latin ed. p. 163*]

APOSTOLIC LETTERS. 163 "Those who dare to draw conclusions, and

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who trust in the loquacity of human wisdom, will never be lacking, so that Christian faith and wisdom may avoid this most egregious vanity as much as it ought, recognizing it from the very institution of our Lord Jesus Christ (1)."

"And since, wherever religion has been abandoned by civil society, and the doctrine and authority of divine revelation have been rejected, even the very notion of justice and human law is obscured and lost in darkness, and material force takes the place of true justice and legitimate law, it is clear why some, with the most certain principles of sound reason completely neglected and set aside, dare to proclaim that 'the will of the people, or what they call public opinion, or some other means, constitutes the supreme law, free from all divine and human law, and that in the political order, things accomplished have force of law simply because they are accomplished.' But does no one see, and does no one clearly feel, that human society, severed from the bonds of religion and true justice, can have no purpose other than the pursuit of gain, the accumulation of wealth, and that in its actions it follows no law other than the insatiable desire to serve its own pleasures and advantages? Therefore, these kinds of people attack Religious Families with bitter hatred, although they are supremely meritorious in matters of the Christian faith, civil affairs, and literature, and they clamor that these have no legitimate reason for existing, and thus applaud the comments of heretics. For, as our most wise predecessor, Pope Pius V, taught, 'The abolition of religious orders injures the state of public vows, injures the way of life recommended in the Church, as one that is in accordance with the doctrine of the Apostles, injures the very illustrious Founders, whom we venerate above the altars, who, unless inspired by God, did not establish these societies (2).' And they impiously pronounce that the faculty and law should be taken away from citizens and the Church 'by which they can openly dispense alms for the cause of Christian charity,' and that the law 'by which, on certain days, servile labor is prohibited for the sake of the worship of God' should be abolished, falsely alleging that this faculty and law are beneficial to the public."

(1) St. Leo, Epist. 164, al. 133, §. 2, edit.

(2) Epist. ad Card. De la Rochefoucauld, cault 10 Martii 1791.

[*Latin ed. p. 164*]

164 APOSTOLIC LETTERS. They strive to oppose the fundamental principles. And not content with removing religion from public society, they desire to banish religion itself from private families. For the most pernicious error of Communists and Socialists is that they teach and assert that "the domestic society, or family, derives the entire reason for its existence solely from civil law; and therefore, all the rights of parents over their children, especially the right of institution and of caring for their education, flow and depend only from civil law." With these false opinions and machinations,

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these most deceitful men primarily intend to completely eliminate the salutary doctrine and power of the Catholic Church from the upbringing and education of youth, and to miserably infect and corrupt the tender, flexible minds of young people with pernicious errors and vices. Indeed, all those who have sought to disturb both the sacred and the public order, and to overturn the proper order of society, and to destroy all divine and human rights, have always directed all their wicked plans, studies, and efforts, as we have indicated above, especially towards deceiving and corrupting the youth, and have placed all their hope in the corruption of that very youth. Therefore, they never cease to attack the clergy, from which, as history's most reliable monuments splendidly testify, so many great benefits have flowed to the Christian, civil, and literary commonwealth, and with all kinds of vile methods, they seek to destroy the clergy itself, "as if it were truly an enemy of the progress of useful knowledge and civilization, and should be removed from all care and duty in the upbringing and education of youth." But others, restoring the erroneous and repeatedly condemned interpretations of the innovators, dare, with outrageous impudence, to subject the supreme authority of the Church and of this Apostolic See, which was granted to it by Christ the Lord, to the arbitrary judgment of civil authority, and to deny all the rights of the same Church and See concerning those matters that pertain to external order. For they are not ashamed to affirm that "the laws of the Church do not bind in conscience, unless they are promulgated by civil authority; the acts and decrees of the Roman Pontiffs concerning religion and the Church require the sanction and approval, or at least the consent, of civil authority; constitutions..."

[*Latin ed. p. 165*]

APOSTOLIC LETTERS. 165 Apostolic constitutions (1), by which clandestine societies, whether they require or do not require an oath to maintain secrecy, are condemned, and their adherents and supporters are excommunicated; these have no force in those regions of the world where such associations are tolerated by the civil government; excommunication, decreed by the Council of Trent and by the Roman Pontiffs, against those who invade and usurp the rights and possessions of the Church, is not a subversion of the spiritual order, nor of the civil and political order, but is intended solely for the temporal good; the Church is not to decide anything that can bind the consciences of the faithful with regard to the use of temporal things; it does not belong to the Church to punish, with temporal penalties, those who violate its laws; it is in conformity with the principles of sacred theology and of public law to assert and defend the property of goods held by Churches, by religious families, and by other pious institutions, before the civil government.

They do not blush to openly and publicly profess the heretical statement and principle from which so many perverse opinions and errors arise. They

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assert that "ecclesiastical power is not distinct from and independent of civil power by divine law, nor can such distinction and independence be maintained without the Church invading and usurping the essential rights of civil power." And we cannot pass in silence their audacity, who, not supporting sound doctrine, contend that "those judgments and decrees of the Apostolic See, the object of which is declared to be the general good of the Church and its rights and discipline, provided that they do not touch upon dogmas of faith and morals, can be rejected and disobeyed without sin, and without any detriment to the Catholic profession." This is clearly and openly contrary to the Catholic dogma of the full power granted to the Roman Pontiff by Christ the Lord, to feed, govern, and rule the entire Church.

"In such perversity of opinions, mindful of our Apostolic office, and concerned for our most holy religion, for sound doctrine, and for the salvation of souls entrusted to us by God, and for the good of human society itself, we..." (1) Clement XII, in Eminenti Benedict XIV, Providas Romanorum, Pius VII, Ecclesiam, Leo XII, Quo graviora.

[*Latin ed. p. 166*]

166 APOSTOLIC LETTERS. Deeply concerned, We have deemed it necessary to raise Our Apostolic voice once again. Therefore, We, with Our Apostolic authority, condemn, reject, and anathematize all and each of the erroneous opinions and doctrines individually mentioned in these Letters, and We decree that they be entirely considered, rejected, and condemned by all the children of the Catholic Church, and We command it. And furthermore, Venerable Brothers, you know very well that in these times, all those who oppose truth and justice, and the most bitter enemies of our religion, are deceiving the people throughout the world with pestilent books, pamphlets, and periodicals, and maliciously spreading impious and other doctrines. Nor are you unaware that, even in our own age, there are some who, moved by the spirit of Satan, and incited to wickedness, do not hesitate to deny the Lord, Our Lord Jesus Christ, and to attack His Divinity with impudent audacity. In this regard, We cannot but offer You, Venerable Brothers, the highest praise, who have not spared any zeal in raising your episcopal voice against such wickedness. "Therefore, We address you again with the greatest affection in these Letters, who, called to share in Our concern, are a source of solace, joy, and consolation to Us amidst Our greatest sorrows, because of the excellent work you perform for the religion, piety, and because of that wonderful love, faith, and obedience with which, with the most concordant hearts, you strive diligently to fulfill your most important episcopal ministry, devoted to Us and to this Apostolic See. Indeed, We expect from your outstanding pastoral zeal that you, taking up the sword of the Spirit, which is the word of God, and strengthened by the grace of Our Lord Jesus Christ, will with ever-increasing diligence strive daily to ensure

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that those entrusted to your faithful care "abstain from harmful plants which Jesus Christ does not cultivate, because they are not the planting of the Father" (1). And never cease to impress upon those same faithful that all true happiness for men flows from our august religion, and from its doctrine and practice, and that blessed is the people whose God is the Lord (2). Teach the "foundation of the Catholic Faith in Szaz-Regen." (1) St. Ignatius M. to Philadelphia, 3. (2) Psalm 143.

[*Latin ed. p. 167*]

APOSTOLIC LETTERS. 167 "to persevere (1), and nothing is so deadly, so precipitous towards ruin, so exposed to all dangers, if we believe that this alone is sufficient for us, namely, that free will, which we received at our birth, is all we need, and that we should seek nothing further from the Lord, that is to say, forgetting our Author, we deny His power, so that we may appear to be free (2). And furthermore, do not fail to teach that royal power is conferred not only for the governance of the world, but especially for the protection of the Church (3), and that nothing can be more beneficial or glorious to the rulers and kings of nations than if, as the most wise and most courageous predecessor, our Holy Pope Felix wrote to Emperor Zenon, they would allow the Catholic Church... to be governed by its own laws, and would not allow anything to obstruct its liberty... For it is certainly salutary for their affairs that, when matters concerning God are discussed, they strive to subject the royal will to the priestly will, according to His own ordinance, and not to prefer their own (4)."

"But now, Venerable Brothers, especially in these calamitous times for the Church and civil society, in this great conspiracy of enemies against the Catholic faith and this Apostolic See, and in this great accumulation of errors, it is absolutely necessary that we approach the throne of grace with confidence, etc...."

Followed by the granting of the Jubilee.

LETTER FROM THE MOST EMINENT CARDINAL I. ANTONELLI, CONCERNING EXTERNAL MATTERS OF THE HOLY APOSTOLIC SEE, IN WHICH THE SYLLABUS, PREPARED AT THE ORDER OF THE MOST HOLY FATHER, IS SENT TO THE ECCLESIASTICAL SUPERIORS.

Most Reverend and Most Reverend Lord, after discussions held in the Consistory, and in other Apostolic Letters recently published, our Most Holy Lord Pope Pius IX, deeply concerned about the salvation of souls, and about sound doctrine, and about errors, which are most harmful, especially in this unhappy age, has never ceased in his Encyclical Letters, and in his teachings, to condemn these things. And since it may happen that all these Pontifical acts, sent to individual Ordinaries, are not fully understood, or are not received with due attention, He has therefore ordered that a Syllabus be prepared, in which the principal errors are summarized, so that they may be more easily known and refuted.

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(1) St. Celestine, Epistle 22 to the Synod of Ephesus, apud Coust. p. 1200.

(2) St. Innocent I, Epistle 29 to the Bishops of the Council of Carthage, apud Coust. p. 891.

(3) St. Leo, Epistle 156 al. 125.

(4) Pius VII, Encyclical Letter "Diu satis," May 1800.

[*Latin ed. p. 168*]

168. Having learned of this, the Supreme Pontiff desired that a Syllabus of these errors be prepared and sent to all the Sacred Prelates of the entire Catholic world, so that these Prelates might have before their eyes all the errors and pernicious doctrines which have been condemned and rejected by him. He also gave me the charge to see to it that this Syllabus, printed by the press, be delivered to you, Most Illustrious and Reverend Lord, at this opportune time, when the same Supreme Pontiff, out of concern for the well-being and good of the Catholic Church and of the entire flock of the Lord entrusted to him by divine providence, deemed it necessary to write another Encyclical Letter to all the Catholic Sacred Prelates. Therefore, with all due alacrity and obedience, as is fitting, I hasten to send you, Most Illustrious and Reverend Lord, the same Syllabus, appended to this letter. While I rejoice greatly in being able to testify to and confirm the sentiments of my most devoted heart towards you, I earnestly pray from the depths of my heart that all may go well with you and that you may receive blessings from the Most High God.

"To Your Most Illustrious and Reverend Lordship.

Rome, December 8, 1864.

Your most devoted servant,

I. CARD. ANTONELLI.

SYLLABUS CONTAINING THE PRINCIPAL ERRORS OF OUR AGE, AS NOTED IN ENCYCLICALS AND OTHER APOSTOLIC DOCUMENTS OF THE MOST HOLY POPE PIUS IX.

I. "There exists no supreme, most wise, and most provident Divine Being distinct from this universe; and God is the same as nature, and therefore subject to changes, and God truly becomes man and the world, and all things are God, and possess the very substance of God; and God is one and the same thing as the world, and therefore spirit and matter, necessity and freedom, truth and falsehood, good and evil, and justice and injustice."

Allocution, *Maxima quidem*, June 9, 1862.

II. "All divine action in men and the world is to be denied."

Allocution, *Maxima quidem*, June 9, 1862.

III. "Human reason, without any regard for God, is the sole arbiter of truth and falsehood, of good and evil; it is a law to itself, and with its own

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natural powers it suffices for the good of men and of nations."

Allocution, *Maxima quidem*, June 9, 1862.

IV. "All the truths of religion are derived from the native power of human reason; hence reason is the principal guide."

[*Latin ed. p. 169*]

169. But how can a man acquire knowledge of all kinds of truths? "All the dogmas of the Christian religion are such that one can and ought to follow them." *Epistola Encyclica, Qui Pluribus, 9 November 1846. Epistola Encyclica, Singulari quidem, 17 March 1856. Allocution, Maxima quidem, 9 June 1862.* "Divine revelation is perfect and, therefore, subject to continuous and indefinite progress, provided that these dogmas correspond to the progress of human reason." *Epistola Encyclica, Qui Pluribus, 9 November 1846. Allocution, Maxima quidem, 9 June 1862. Epistola, ad Archiepiscopus Frising, Gravissimas, 11 December 1862. Epistola, ad eumdem, Tuas Libenter, 21 December 1863.* "The faith of Christ is not contrary to human reason; and divine revelation not only does not harm, but even benefits, human perfection." *Epistola Encyclica, Qui Pluribus, 9 November 1846. Allocution, Maxima quidem, 9 June 1862.*

VII. "The prophecies and miracles recounted and narrated in the sacred Scriptures are the comments of poets, and the mysteries of the Christian faith can only be understood through natural philosophy."

X. "There is a difference between a philosopher and philosophy; the former has the right and duty to submit to the authority that he himself has proven to be true; but philosophy cannot, nor ought to, submit to any authority." *Epistola, ad Archiepiscopus Frising, Gravissimas, 11 December 1862. Epistola, ad eumdem, Tuas Libenter, 21 December 1863.*

XI. "The Church does not only never forbid philosophy, but even tolerates its errors, and leaves it to correct itself." *Epistola Encyclica, Qui Pluribus, 9 November 1846. Allocution, Maxima quidem, 9 June 1862. Epistola, ad Archiepiscopus Frising, Gravissimas, 11 December 1862.*

VIII. "When human reason is equated with religion, therefore, theological disciplines are to be treated in the same way as philosophical ones." *Allocution, Singulari quadam perfusi, 9 December 1834.*

XII. "The decrees of the Apostolic See and of the Roman Congregations impede the free progress of science." *Epistola, ad Archiepiscopus Frising, Tuas Libenter, 21 December 1863.*

XIII. "The methods and principles by which the ancient scholastic doctors..."

[*Latin ed. p. 170*]

170. The theologies cultivated today are in no way suited to the needs of our times, nor do they correspond to the progress of the sciences. Letter

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to the Archbishop of Frisingen, "Tuas libenter," December 21, 1863. XIV. "Philosophy must be treated without any consideration of supernatural revelation." Letter to the Archbishop of Frisingen, "Tuas libenter," December 21, 1863. N.B. The errors of Anthony Günther, which are condemned in the Letter to the Cardinal Archbishop of Coloniensem, "Eximiam tuam," June 15, 1847, and in the Letter to the Bishop of Wratislaviensem, "Dolore haud mediocri," April 30, 1860, largely agree with the system of rationalism.

§ III. Indifferentism, Latitudinarianism. XV. "It is the right of every man to embrace and profess that religion which, guided by the light of reason, he considers to be true." Apostolic Letter, "Multiplices inter," June 10, 1851. Allocution, "Maxima quidem," June 9, 1862. XVI. "Men of any religion can find the way to eternal salvation and attain eternal salvation." Encyclical Letter, "Qui pluribus," November 9, 1846. Allocution, "Ubi primum," December 17, 1847. Encyclical Letter, "Singulari quidem," March 17, 1856. XVII. "At least, we must hope for the eternal salvation of all those who are not in the true Church of Christ." Allocution, "Singulari quadam," December 9, 1854. Encyclical Letter, "Quanto conficiamur," August 17, 1863. XVIII. "Protestantism is nothing other than a different form of the same true Christian religion, in which, just as in the Catholic Church, it is pleasing to God." Encyclical Letter, "Noscitis et Nobiscum," December 8, 1849.

§ IV. Socialism, Communism, Secret Societies, Biblical Societies, Clerico-Liberal Societies. Such pests are often and with the gravest words condemned in the Encyclical Letter, "Qui pluribus," November 9, 1846; in the Allocution, "Quibus quantisque," April 20, 1849; in the Encyclical Letter, "Noscitis et Nobiscum," December 8, 1849; in the Allocution, "Singulari quadam," December 9, 1854; in the Encyclical Letter, "Quanto conficiamur moerore," August 10, 1863.

XIX. Errors concerning the Church and its rights. "The Church is not a true and perfect society, completely free, nor does it possess its own and constant rights, conferred upon it by its divine Founder, but it is the duty of civil authority to define what are the rights and limits of the Church, within which the latter may exercise those rights." Allocution, "Singulari quadam," December 9, 1834. Allocution, "Multis gravibusq.," December 17, 1860. Allocution, "Maxima quidem," June 9, 1862.

[*Latin ed. p. 171*]

BUS. X X . "Ecclesiastical power ought not to exercise its authority without the permission and assent of civil government. Allocution. Everyone remembers. 1861. September 30. A legitimate right to acquiring and possessing property. Allocution. *Nunquam fore*. December 15. Encyclical Letter. *Incredibili*. September 1856: 1863. XXVII. "The ministers of the Holy Church and the Roman Pontiff are to be excluded from all temporal concerns and dominion. Allocution. *Maxima quidem*. June 9, 1862. XXVIII. "It is not permissible for bishops, without the permission of the Govern-

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ment, to publish even Apostolic Letters. Allocution. *Nunquam fore*. December 15, 1856. XXIX. "Graces granted by the Roman Pontiff ought to be considered as invalid, unless they have been requested through the Government. Letter to the Archbishop of Friburg. December 21, 1863. Allocution. *Nunquam fore*. December 15, 1856. XXX. "The Roman Pontiffs and the Ecumenical Councils have exceeded the limits of their power, have encroached upon the rights of princes, and have even erred in defining matters of faith and morals. Apostolic Letter. *Multiplices inter*. June 10, 1851. XXXI. "The ecclesiastical forum has absolutely no power to deal with temporal causes of clerics, whether civil or criminal, and possesses no temporal power whatsoever, directly or indirectly. Apostolic Letter. *Ad Apostolicae*. August 22, 1831. Allocution. *Acerbissimum*. September 27, 1852. Allocution. *Nunquam fore*. December 15, 1856. XXXII. "Without any violation of natural law and equity, the personal immunity of individuals can be abrogated by the civil authority, expressly or tacitly, and therefore, when it pleases, it can be revoked, since clerics are exempted from the obligation of military service. Apostolic Letter. *Ad Apostolicae*. August 22, 1851. XXVI. "The Church has no natural power. XXVII. "The Church has no power to dogmatically define that the religion of the Catholic Church is the only true religion. The care and dominion of temporal things are entirely excluded. Allocution. *Maxima quidem*. June 9, 1862. XXVIII. "Bishops, without the permission of the Government, are not permitted to publish even Apostolic Letters. Apostolic Letter. *Multiplices inter*. June 10, 1851. XXII. "The obligation, by which Catholics, teachers and writers, are entirely bound, is restricted only to those things which are presented as infallible judgments of the Church, namely, as dogmas of faith. XXIX. "Graces granted by the Roman Pontiff ought to be considered as invalid, unless they have been requested through the Government. Letter to the Archbishop of Friburg. December 21, 1863. Allocution. *Nunquam fore*. December 15, 1856. XXX. "The Roman Pontiffs and the Ecumenical Councils have exceeded the limits of their power, have encroached upon the rights of princes, and have even erred in defining matters of faith and morals. Apostolic Letter. *Multiplices inter*. June 10, 1881. XXXI. "The ecclesiastical forum has absolutely no power to deal with temporal causes of clerics, whether civil or criminal, and possesses no temporal power whatsoever, directly or indirectly. Apostolic Letter. *Ad Apostolicae*. August 22, 1831. XXV. "Besides the power inherent in an episcopate, there is another temporal power which can be revoked by the civil authority, expressly or tacitly, and which, therefore, when it pleases, can be revoked, because clerics are exempted from the obligation of military service; this true abrogation is demanded by the progress of civil society, especially in this age.

[*Latin ed. p. 172*]

172. A more complete form of government is established. Letter to the

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Bishops of Montireg. Singulars to Us, 29 September 1864.

XXXIII. "It does not pertain solely to the power of ecclesiastical jurisdiction, by its own and native right, to direct the doctrine of theological matters." Letter to the Archbishop of Frising. To You Gladly, 21 December 1863.

XXXIV. "The doctrine that compares the Roman Pontiff to the Prince of peace and agent in the entire Church is the doctrine that prevailed in the Middle Ages." Apostolic Letter, Ad Apostolicae, 22 August 1851.

XXXV. "Nothing forbids, by the sentence of any general council or by the act of all peoples, the transfer of the Supreme Pontificate from the Roman Bishop and City to another Bishop and another state." Apostolic Letter, Ad Apostolicae, 22 August 1851.

XXXVI. "The definition of a national council admits of no other discussion, and civil administration can demand this up to these terms." Apostolic Letter, Ad Apostolicae, 22 August 1851.

XXXVII. "National Churches can be established, completely separated from the authority of the Roman Pontiff." Allocution, AllOC.M, 17 December 1860. Allocution, Iamdudum, 15 March 1861.

XXXVIII. "Excessive decisions of the Roman Pontiffs have contributed to the division of the Church into the Eastern and Western." Apostolic Letter, Ad Apostolicae, 22 August 1851.

§ VI. Errors concerning civil society, both in themselves and in their relations to the Church.

XXXIX. "The state of the republic, as the origin and source of all rights, possesses a certain right without any prescribed limits." Allocution, Maxima quidem, 9 June 1862.

XL. "The doctrine of the Cattolicae Church is opposed to the good and advantages of human society." Encyclical Letter, Qui pluribus, 9 November 1846. Allocution, Quibus quantisque, 20 April 1849.

XLI. "Civil authority, whether exercised by an infidel ruler, has an indirect and negative power over sacred matters; therefore, it has not only the right to execute, but also the right of appeal, which they call, from abuse." Apostolic Letter, Ad Apostolicae, 22 August 1851.

XLII. "In the conflict of laws of both powers, civil law prevails." Apostolic Letter, Ad Apostolicae, 22 August 1851.

XLIII. "Civil authority has the power to intervene in matters concerning religion, morals, and the spiritual order, to annul, declare invalid, and render ineffective solemn agreements (commonly called Concordats) concerning the use of rights pertaining to the Church, with the Apostolic See, even without its consent, and even when it objects." Allocution, In Consistoriali, 1 November. Allocution, Multis gravibusque, 17 December 1850. 1860.

XLIV. "Civil authority can interfere in matters concerning religion,

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morals, and the spiritual order."

[*Latin ed. p. 173*]

SYLLA pertains to you. From this, one can judge the instructions which the pastors of the Church issue for the sake of the norm of conscience, according to their office; and also one can judge concerning the administration of the divine Sacraments and the dispositions necessary for receiving them. Allocution, to the Consistory, November 1, 1850. Allocution, *Maxima quidem*, June 9, 1862. XLV. "The entire administration of public schools, in which the youth of a Republic are educated, with the exception of episcopal seminaries to some extent, can and ought to be attributed to civil authority, and indeed, it should be attributed in such a way that no other authority is granted the right to interfere with the discipline of the schools, with the administration of studies, with the granting of degrees, or with the selection or approval of teachers." Allocution, to the Consistory, November 1, 1850. Allocution, *Quibus luctuosissimis*, September 5, 1831. XLVI. "Indeed, even in the seminaries of clerics, the method of studies to be used is subject to civil authority." Allocution, *Numquam fore*, December 15, 1856. XLVII. "The best arrangement for civil society demands that public schools, which are open to all classes of children from the people, and public institutions in general, which are intended for teaching more advanced subjects and for the education of youth, be exempt from all ecclesiastical authority, controlling power, and influence, and that they be completely subject to the judgment and will of civil and political authority, according to the wishes of those in power and the prevailing opinions of the age." Letter to the Archbishop of Friburg, July 11, 1864. XLVIII. "It can be demonstrated to Catholics that a method of educating youth which is separated from the Catholic faith and from the authority of the Church, and which concerns only the knowledge of natural things and only the earthly aspects of social life, to some extent or at least primarily, is acceptable." Letter to the Archbishop of Friburg, July 11, 1864. XLIX. "Civil authority can prevent sacred ministers and the faithful people from freely and openly communicating with the Roman Pontiff." Allocution, *Maxima quidem*, June 9, 1862. L. "Civil authority has the right, of its own accord, to present bishops, and it can demand that they take up the administration of a diocese before they receive canonical institution and apostolic letters from the Holy See." Allocution, *Nunquam fore*, December 13, 1856. LI. "Indeed, the civil government has the right to remove bishops from the exercise of the pastoral ministry, and it is not bound to obey the Roman Pontiff in matters concerning the institution of dioceses and of bishops." Apostolic Letter, *Multiplices inter*, June 10, 1851. Allocution, *Acerbissi-

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mum*, September 27, 1852. LII. "The government can, by its own right..."

[*Latin ed. p. 174*]

174 SYL] It is necessary that human laws, both written and those pertaining to religious matters, conform to the laws of the Church, and that the force of these laws, whether applied to men or women, be observed in all religious families, and that no one be admitted to take solemn vows without the permission of their superiors.

Allocution, June 9, 1862, LVII. "The science of philosophy, as well as the knowledge of morals, and even civil laws, can and ought to be guided by divine and ecclesiastical authority; indeed, they can provide the greatest assistance to all those families who, having embraced the religious life, wish to avoid breaking their solemn vows, and to increase and augment their virtues and honesty."

Allocution, December 15, 1856, LUI. "Those laws which are to be abolished, in order to protect the status of religious families, and to safeguard their rights and duties, must be those which are repugnant to divine and ecclesiastical authority."

Allocution, June 9, 1862, XV. "No powers are to be recognized except those which are established by law, and all honesty and discipline are to be placed in accumulating and increasing the virtues of religious families, as well as collegiate churches and simple benefices, even to the point of completely extinguishing the rights of patronage, and subjecting their goods and revenues to the administration and jurisdiction of civil power, and reclaiming them."

Allocution, August 10, 1863, LIX. "How much the material fact consists, and all human duties are empty names, and all human actions have legal force."

Allocution, September 27, 1852.

Allocution, January 1, 1855.

Allocution, July 26, 1855.

Allocution, June 9, 1862, LTV.

Allocution, June 10, 1851, LV. "The Church must be separated from the State, and the State from the Church."

Allocution, September 27, 1852.

Allocution, June 9, 1862, LXI. "The injustice of a fortunate event does not diminish the sanctity of the law."

Allocution, March 18, 1861, 8-TO, LXII. "It is necessary to proclaim and preserve the principle which is called the principle of non-intervention."

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Allocution, September 28, 1860, LXII. "Legitimate princes ought..."

[*Latin ed. p. 175*]

JUS. Obedience is to be decreed, indeed, even rebellion is permitted. Encyclical Letter, *Qui pluribus*, 9 November 1846. Allocution, *Quisque vestrum*, 4 October 1847. Encyclical Letter, *Noscitis et Nobiscum*, 8 December 1849. Apostolic Letter, *Cum Catholica*, 26 March 1860. LXIV. "Then, the violation of each most holy oath, and any wicked and scandalous action contrary to eternal law, is not only not to be condemned, but is entirely permissible, and worthy of the highest praise, when it is done for the love of one's country." Allocution, *Quibus quantisque*, 20 April 1849. 175, concerning impediments that must be removed. Apostolic Letter, *Multiplices inter*, 1 July 1851. LXIX. "The Church, in subsequent centuries, began to introduce impediments, not by its own right, but by that right which it had borrowed from civil authority." Apostolic Letter, *Ad Apostolicae*, 22 August 1851. LXX. "The canons of Trent, which inflict the censure of anathema upon those who dare to deny the Church the power of introducing impediments, are either not dogmatic, or are to be understood as referring to this borrowed power." Apostolic Letter, *Ad Apostolicae*, 22 August 1851, § VIII. Errors concerning Christian marriage. LXXV. "It cannot be maintained that Christ elevated marriage to the dignity of a sacrament." LXXI. "The Tridentine form, under the penalty of invalidity, does not obligate, where civil law establishes another form, and desires that marriage be valid with this new form intervening." Apostolic Letter, *Ad Apostolicae*, 22 August 1851. Apostolic Letter, *Ad Apostolicae*, 22 August 1851. LXVI. "The sacrament of marriage is nothing other than something accessory to the contract, separable from it, and the sacrament itself is contained in only one nuptial blessing." LXXII. "Boniface VIII first asserted that the vow of chastity made at ordination renders marriage null and void." Apostolic Letter, *Ad Apostolicae*, 22 August 1851. Apostolic Letter, *Ad Apostolicae*, 22 August 1851. Allocution, *Acerbissimum*, 27 September 1852. LXXIII. "A mere civil contract can, among Christians, constitute a true marriage; and it is false, either that a marriage contract among Christians is always a sacrament, or that there is no contract if the sacrament is excluded." LXVIII. "The Church does not have the power to introduce impediments to marriage, but this power belongs to civil authority," from Apostolic Letter, *Ad Apostolicae*, 22 August 1851. Letter of His Holiness Pius IX to the King of Sardinia, 9 September 1852. Allocution, *Acerbissimum*, 27 September 1852. Allocution, *Multis gravibusque*, December 1860. LXVII. "By natural law, the bond of marriage is not indissoluble, and in various cases, a divorce properly so called can be sanctioned by civil authority." Apostolic Letter,

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Ad Apostolicae, 22 August 1851.

[*Latin ed. p. 176*]

176 SYL! LXXIV. ”Causes matrimoniales et sponsalia, ex sua natura, ad forum civile pertinent. Litterae Apostolicae, Ad Apostolicae, 22 Augusti, 1851. Allocutiones, Acerbissimum, 27 Septembris, 1852. N.B. Huc faciunt duo alii errores, de clericorum coelibatu abolendo et de statu matrimonii statui virginitatis anteferendo. Condemnati sunt, prior in Epistola Encyclica, Qui pluribus, 9 Novembris, 1846, posterior in litteris apostolicis, Multiplices inter, 10 Iunii, 1851.” §. I X. Errores de civili Romani Pontificis principatu. Cum Catholica Ecclesia, 26 Martii, 1860; in Allocutione, Novos, 28 Septembris, 1860; in Allocutione, Iamdudum, 18 Martii, 1861; in Allocutione, Maxima quidem, 9 Iunii, 1862.” §. X. Errores qui ad Liberalismum hodiernum referuntur. LXXVII. ”Aetate hac nostra, non amplius expedit, religionem Catholicam haberi tamquam unicam religionem status, ceteris quibuscumque cultibus exclusis. Allocutionis, Nemo vestrum, 26 Iulii, 1855. LXXV. ”De temporalis regni cum spirituali compatibilitate disputant inter se Christianae et Catholicae Ecclesiae filii. LXXVIII. ”Hinc laudabiliter in quibusdam regionibus Catholici nominis, lege cantum est, ut hominibus illuc immigrantibus liceat publicum exercitium proprii cuiusque cultus habere. Litterae Apostolicae, Ad Apostolicae, 22 Augusti, 1851. Allocutionis, Acerbissimum, 27 Septembris, 1852. LXXVI. ”Abrogatio civilis imperii, quo Apostolica Sedes potitur, ad Ecclesiae libertatem felicitatemque vel maxime conduceret. LXXIX. ”Enimvero falsum est, civilem cuiusque cultus libertatem itemque plenam potestatem omnibus attributam, quaslibet opiniones, cogitationesque palam publiceque manifestandi, conducere ad populorum mores animosque facilius corrumpendos, ac indifferentismi pestem propagandam. Allocutionis, Quibus quantisque, 20 Aprilis, 1849. N.B. Praeter hos errores explicite notatos, alii complures implicite reprobantur, proposita et asserta doctrina quam Catholici omnes firmissime retinere debeant, de civili Romani Pontificis principatu. Eiusmodi doctrina luculenter traditur in Allocutione, Quibus quantisque, 20 Aprilis, 1849; in Allocutione, Si semper antea, 20 Maii, 1850; in Litteris Apostolicis, Allocutione, Nunquam fore, 15 Decembris, 1856. LXXX. ”Romanus Pontifex potest et debet cum progressu, cum liberalismo et cum recenti civilitate se reconciliare et componere. Allocutionis, Iamdudum cernimus, 18 Martii, 1861.

[*Latin ed. p. 177*]

177 APOSTOLIC LETTERS. BY THE MOST HOLY FATHER, OUR LORD, POPE PIUS IX, BY DIVINE PROVIDENCE. WHEREBY THE SO-CALLED APOSTOLIC LEGATION IN SICILY, AND THE MONARCHY THEREBY DESIGNATED, AS WELL AS THE JUDGE DELEGATED TO IT, AND HIS TRIBUNAL, MINISTERS, AND OFFICIALS, AND ALL

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THINGS CONNECTED THEREWITH, ARE ENTIRELY ABROGATED AND ANNULLED. TO THE BISHOP, SERVANT OF THE SERVANTS OF GOD, FOR PERPETUAL REMEMBRANCE OF THIS MATTER. "The supreme care of the entire flock of the Lord, which, undeservedly, has been entrusted to Us in the person of the most blessed Peter, the Prince of the Apostles, by Christ the Lord Himself, absolutely demands that, for the sake of Our Apostolic ministry, We diligently consider the good and prosperity of all the Churches of the entire Catholic world, and that We strive to ensure that Our most holy faith and religion may flourish more and more everywhere, and that ecclesiastical discipline may be preserved and promoted, and that the tares, which the enemy has sown among the wheat, may be uprooted, and all corruptions which are most harmful to the salvation of souls and the order of sacred things may be eliminated. From the very beginning of Our Pontificate, We have therefore directed Our paternal concern towards Sicily, and We have also issued Our Apostolic Letters, sealed with the Fisherman's ring, on the 26th of January, 1855, the beginning of which We entitled "Peculiaribus," for the spiritual benefit of Sicily, which, from ancient times, has been a daughter most beloved by the Roman Church, bound to this Apostolic See by the closest ties of piety, love, and devotion. But with the greatest sorrow of mind, We know of the great evils and damages to which Sicily itself has long been subjected..."

[*Latin ed. p. 178*]

178 APOSTOLIC LETTERS. is deeply afflicted. And having seriously considered all the acts which this Holy See has issued concerning that island, We, Clement X, Our Predecessor, have rightly and with the best of right judged that many, and indeed the most serious, evils of Sicily, abuses and corruptions, arise from the so-called Legation and Tribunal of the Monarchy, which are said to have been granted by Urban II, also Our Predecessor. Wherefore, the same Clement X, inflamed by apostolic zeal, on the tenth day before the Kalends of March in the year one thousand seven hundred and seventeen, issued Pontifical Letters sealed with lead, beginning "Romanus Pontifex," in which he completely abolished and extinguished the so-called Apostolic Legation, and the Tribunal called by that name, clearly expounding the most serious reasons for which he considered such a plan to be entirely unacceptable. Later, Benedict XIII, equally Our Predecessor, being influenced by particular circumstances and events, and by repeated promises, and trusting that with a Tribunal established with certain and immutable norms and rules, all abuses would be eliminated, on August 30th of the year 1728, promulgated Apostolic Letters sealed with lead, beginning "Fideli," in which he established in Sicily an Ecclesiastical Delegate Judge for causes, and his Tribunal, with powers and laws which could never be changed in any way. But the hopes of Our Predecessor proved vain, for that judge and tribunal, retaining the

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name of the Judge and Tribunal of the Monarchy, falsely believed that, as before, they derived their origin from the so-called Apostolic Legation, and secular power not only undertook to direct that tribunal, but also issued ordinances, declarations, and pragmatic sanctions contrary to the Apostolic Letters "Fideli," and furthermore proceeded to exercise the asserted rights of that so-called Legation, which had been abolished by Clement XI, and the Delegate Judge considered it more fitting to follow the ordinances of the government than to obey the aforementioned Constitution of Benedict XIII. Therefore, this Apostolic See has not failed to repeatedly call for and insist that the limits prescribed by the Constitution of Benedict XIII be diligently observed. And this was again promised on the occasion of the Convention between this Apostolic See and the King of both Sicilies in the year 1818, and was also stipulated in a Royal Ordinance, which, in a letter from the Royal Secretary of April 29th of the year 1818, instructed that all...

[*Latin ed. p. 179*]

APOSTOLIC LETTERS. 179. That abuses might be removed, and the limits established in the Apostolic Letters "Fideli" diligently observed. But the promised reforms were not kept, nor were our requests, and those of our predecessors, heeded; nor were the complaints and grievances of the bishops, voiced in a council held by them in that island in the year 1850, heard, even though the matter concerned very serious abuses, from which the faithful of Sicily suffered great harm and detriment, which all the then-existing prelates of that island unanimously deplored before the Catholic King, claiming their rights. We ourselves, to some extent, endeavored to apply a suitable remedy to these evils, but our efforts were in vain. For, under the pretext of a Legation, ecclesiastical affairs were largely usurped, and laws concerning ecclesiastical discipline were unjustly enacted, and this Apostolic See was hindered from exercising its salutary action towards those Churches. And it came to pass that the civil authority would not at all depend on the Roman Pontiff, whose place it claimed to take, in matters pertaining to ecclesiastical discipline. But this judge, so-called "Monarch," not observing the limits prescribed by the Apostolic Letters "Fideli," serves the orders of civil officials, and blindly executes them, claiming powers which it entirely lacks, and, under the pretext of justice, brings lawsuits, completely disregarding the canonical provisions enunciated in the aforementioned Letters "Fideli," and compels the bishops to give an account, so that they rarely can, even in the first instance, judge the cases, and it prevents the supreme superiors of religious families from exercising their authority over the religious men subject to them, and it does not hesitate to interfere with the internal discipline of regular orders. Consequently, in Sicily, the authority of the bishops has been diminished and destroyed, to the great detriment of their rights and the salvation of souls, so that ecclesiastical discipline has been weakened, and regular observance has been

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almost destroyed, and disobedience to their superiors has been promoted and defended among both clergy, so that the bishops and superiors of regular orders, constantly oppressed and forced by the illegitimate actions and power of that Tribunal, are unable to prevent the disturbances and the sad consequences resulting from the nullity of the acts perpetrated by that same Tribunal.

[*Latin ed. p. 180*]

180 APOSTOLIC LETTERS. concerning the statutes and prescriptions established by the aforementioned "Fideli" Apostolic Letters. It also happened that, towards the end of the preceding century, the Tribunal of Messina, by the arbitrary decision of the civil authority, was unjustly established in such a way that it did not in any way depend on the Tribunal of the Monarchy. From this very lamentable state of affairs, the most grievous evils have repeatedly afflicted Sicily at various times, evils which are better lamented than recounted, since they are known and evident to all, especially after Our Apostolic Letters were, through extreme injustice, disrespected and disregarded. And were it not for the outstanding faith, piety, observance, and obedience of the Sicilians towards this Chair of Peter, the center of Catholic unity, and the solicitude of the Bishops for the salvation of souls, one would fear the danger that, if things were to proceed in this manner, Sicily would be afflicted by even more grievous evils. Since, therefore, from the aforementioned Tribunal, which they call the "Monarchy," so many damages are derived, and continue to be derived, to the Church, and to its authority, rights, and discipline, and since the repeated exhortations of this Apostolic See have been rendered futile, in order that the aforementioned Tribunal might diligently observe the limits defined in the Apostolic "Fideli" Letters, and since false promises of eliminating corruption have always been repeated, therefore, in view of so many grievous evils that afflict the Church in Sicily, and in view of so many great dangers that threaten the same Church, We cannot only not connive in any way, but, by reason of the most serious duty of Our Supreme Apostolic ministry, We must completely remove and eliminate these evils and dangers with all care and diligence. For We consider Ourselves to be guilty before God if We do not take care to eradicate these evils completely. Therefore, let us, using the words of Our Predecessor, Clement XI, cut down that tree from which such bad fruit has sprung, since the Roman Pontiff, established by the Lord Christ as a defender of justice and goodness, is obligated to destroy all that is harmful and to uproot it completely. Although, perhaps, concessions may have been granted by this Apostolic See concerning certain matters for legitimate reasons, such that concessions must nevertheless be revoked and abolished, since, with the circumstances and times having changed, experience demonstrates that great harm has arisen and will arise from

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these concessions, and that they open the way to all kinds of corruption and abuses, and to the detriment of the salvation of souls.

[*Latin ed. p. 181*]

APOSTOLIC LETTERS. |8l Against adversaries. And since, by reason of the duty of Our Apostolic office, We can no longer endure or tolerate so many evils and corruptions, and We cannot permit the dignity of the ecclesiastical Order, which holds privileges within the Sicilian Kingdom, to be unable to be undermined and destroyed, after having consulted with a special Congregation of Most Eminent Cardinals, and after having heard certain esteemed Prelates of the Roman Curia, by Our own initiative, with certain knowledge, after mature deliberation, and by the fullness of Our Apostolic power, by these Letters We not only confirm the suppression and abolition of the so-called Apostolic Legation of Sicily, and of that Kingdom, which was instituted by Our predecessor Clement XI, but We also, to the extent that it may be necessary, by Our supreme authority, again suppress, extinguish, and abolish that same Apostolic Legation and Kingdom; moreover, We entirely revoke and annul, with the tenor of these present Letters, that often-mentioned Constitution "Fideli," issued by Our predecessor Benedict XIII, concerning the judge delegated in Sicily, whom they call the judge of the Kingdom, together with his Tribunal, along with all indulgences, privileges, and faculties, also granted in Apostolic Letters in forma revis, issued by Our predecessor Gregory XVI, beginning with the words "Iamdiu," dated March 3, in the year 1846, and also in Our own Letters of January 21, in the year 1856, beginning with the words "Peculiaribus," and in all other documents by which We and Our predecessors have, for any reason whatsoever, granted and confirmed to the aforementioned delegated judge, and his Tribunal, We entirely revoke and annul the office of that same judge, and of the other officials and ministers, and that Tribunal, together with the aforementioned Tribunal of Messanae erected, forever removing it from office, and completely extinguishing, annulling, and abolishing it. We therefore will and command that all these things be held and considered as if completely extinct, suppressed, and abolished, and also as if completely rescinded, annulled, deleted, revoked, and utterly abrogated. Furthermore, We have come to this decision in order to defend the freedom of the Church, and Our own authority, and that of this Holy See, and of the Bishops and Superiors of Religious Orders, and to restore ecclesiastical discipline, and to consider the salvation of souls in danger. But since—

[*Latin ed. p. 182*]

182 APOSTOLIC LETTERS, motivated entirely by charity, rightly benefit the faithful people of Sicily, who, having always been devoted to their ancestral religion and piety, steadfastly adhere to Us and to this Apostolic

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See with unwavering faith and obedience. We do not omit, however, to address, through other of Our Apostolic Letters, the inconveniences and expenses of these same faithful, by granting suitable facilities to the Venerable Brothers, the Sacred Prelates in Sicily, whom these faithful will be able to approach more easily and conveniently. We wish, We decree, We command, and We order, declaring that these present Letters, and whatever is contained therein, even concerning those who have been mentioned and any other person who may be interested in the aforementioned matters, or who may claim to be so interested, regardless of their status, rank, order, prominence, and dignity, even if they are of royal or imperial standing, will not be invalidated if they have not consented to them, nor if they have not been summoned, cited, and heard, nor if the reasons for which these present Letters were issued have not been sufficiently presented, verified, and justified, or if, for any other reason, even if it is a legal or privileged one, under any pretext or guise, even within the closed sphere of law, even if it involves a very great, immense, and total injury, will ever be subject to the flaw of deception, or of omission, or of nullity, or of Our intention, or of the consent of those interested, or to any other, even if it is a very great and substantial, and unforeseen and unpredictable, and individual defect that requires expression. They will not be challenged, invalidated, revoked, brought into question, or reduced to legal terms, nor will any remedy of law, fact, or grace be sought or obtained against them, or, even after being obtained, or even if issued with full power, knowledge, and authority, will anyone be able to use them in any way, either in court or outside of it, to their detriment. But these present Letters will always exist and remain firm, valid, and effective, and will not be weakened by any legal or factual defects that might, especially from secular authority, or from the aforementioned abolished and extinct Sicilian Monarchy, Tribunal, Delegate Judge, or any of their ministers, be used to impede or delay their execution in any way, or for any reason, nor can any objection be made against them, but will fully and completely achieve their intended effects: And therefore, we grant to all, and sin-

[*Latin ed. p. 183*]

APOSTOLIC LETTERS. "These Letters, through the same secular power, or through the same abolished and extinguished Legation and Tribunal, and their ministers, whatever their rank, must be entirely and absolutely rejected, and in no way attended to by those to whom they pertain, and for whatever time they may pertain, inviolably and without hesitation; and thus, and in no other way, must they be judged and defined by any Ordinary Judges, and Delegates, even Auditors of Causes of the Apostolic Palace, and Cardinals of the same Holy Roman Church, even Legates from the side [of the Holy See], and Nuncios of the aforementioned See, and all others exercising and about to exercise any authority or office,

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having been deprived of, and each of them having been deprived of, any other power to judge and interpret, and must be judged and defined, and shall be null and void, if anyone, with any authority, knowingly or unknowingly, should happen to attend to these matters in any other way. Notwithstanding the foregoing, and to the extent that it is necessary, Our and the Apostolic Chancery's rule regarding the questioned law shall not be set aside, nor shall other Apostolic, and in Universal, Provincial, and Synodal Councils, General or Special Constitutions and Ordinances, nor any statutes, customs, and prescriptions, however long and ancient, be set aside; also, privileges, indulgences, and Apostolic Letters, with which Kingdoms, Provinces, and Persons, even of Imperial, Royal, or any other worldly, or even ecclesiastical dignity, shine, or which are specifically and individually worthy of mention by the aforementioned See for any reason, even through contract and remuneration, under whatever terms and forms, and with whatever clauses, even derogatory clauses, and other more effective, most effective, and unusual clauses, and other decrees, even with equal motion, knowledge, and fullness of power, and in a consistorial manner, three times, or otherwise in general or in particular, to the contrary of the foregoing, granted, issued, made, and repeatedly iterated, and approved, confirmed, and even containing that they cannot be excommunicated by Apostolic Letters, not making a full and explicit, and word for word, declaration of Privileges and Indulgences."

[*Latin ed. p. 184*]

184 APOSTOLIC LETTERS. Such mention. Regarding all and each of these matters, even if, for the sufficient derogation of them, their entire contents were not specifically, expressly, and individually, and word for word, but rather through general clauses, mentioned, or any other refined expression were to be used to maintain them, the contents of such matters, as if word for word, without omitting anything, and with the form therein transmitted observed, expressed, and inserted: present, fully, and sufficiently expressed, and inserted, shall remain in force, and for the effect of the foregoing, we hereby specifically and expressly derogate, and intend to have derogated, from all other contrary provisions whatsoever.)> Now, since these present letters cannot, especially in these times, be safely published in Sicily, as experience has hitherto shown, and as We know sufficiently and abundantly through legitimate proofs, as We declare in this series, and it is to be feared that the execution of these letters might be hindered under the pretext of the condemned Law concerning the Royal Decree; We wish that these, or their copies, in order that they may become known to all, be affixed and published at the doors of the Lateran Palace, and of the Basilica of the Principality of the Apostles, and also at the Apostolic Chancery, the General Curiae on the Caelian Hill, and in the Field of Flowers in the City, as is customary, and that, once published and affixed,

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they shall have full effect after two months from the day of their publication and affixation, and shall bind and affect all and each of those to whom they pertain, just as if they had been individually and personally notified; and that, with respect to copies, or extracts, even printed by some public notary, subscribed, and sealed with the seal of a person holding ecclesiastical office, the same full faith shall be given to them, both in court and outside of it, everywhere, as would be given to them if they were exhibited or shown. » Therefore, absolutely no human being is permitted to infringe upon this page of Our will, suppression, abolition, rescission, cassation, deletion, revocation, abrogation, mandate, interdiction, declaration, and intention, or to dare to contradict it with reckless audacity. If anyone should presume to attempt this, they will incur Our indignation.

[*Latin ed. p. 185*]

APOSTOLIC LETTERS. 185 May the Almighty God, and the blessed Apostles Peter and Paul, His Apostles, know that I am approaching. "Given at Rome, near St. Peter's, in the year of the Incarnation of the Lord, one thousand eight hundred and sixty-four, on the fifth day before the Kalends of February. In the eighteenth year of Our Pontificate. M. CARI. MATTEI, Pro-Datary. N. CARD. PARACCIANI CLARELLI, Visum de Curia D. Bruti. Locum £g Plumbi. 1. Cugnonius. "We command that these Our Apostolic Letters be published on the tenth day of October, in the year one thousand eight hundred and sixty-seven." PIUS P. P. IX. "By order of the Most Holy Father and Lord, Our Lord, by divine providence, Pius P. P. IX, in the year one thousand eight hundred and sixty-seven, Indiction X, and on the tenth day of October, in the twenty-second year of his Pontificate, these present Apostolic Letters were affixed and published at the doors of the Basilica of St. John Lateran, and of the Principal Apostles, the Apostolic Chancery, and the Great Innocentian Palace, and in the field of Campo Fiore, and in other customary places of the City, by me, Aloysius Serafini, Apostolic Curs." Philippus Ossani, master of the Curs.

[*Latin ed. p. 186*]

186 APOSTOLIC LETTERS. Apostolic Letters by which suitable faculties are granted to the authorities of Sicily, according to what is indicated in the following sections of the aforementioned Letters. FROM OUR MOST HOLY LORD POPE PIUS IX, BY THE DIVINE PROVIDENCE, TO THE ARCHBISHOPS AND BISHOPS, AND TO BOTH THE SECULAR AND REGULAR CLERGY, AND TO ALL THE FAITHFUL OF SICILY, TO WHOM IT IS PRESCRIBED THE METHOD BY WHICH ALL CAUSES PERTAINING TO THE ECCLESIASTICAL FORUM MAY BE JUDGED, ABOLISHING THE DELEGATE JUDGE AND HIS TRIBUNAL, AND ALSO THE TRIBUNAL OF MESSINA. To the Venerable Brothers, Archbishops, Bishops, and other local Ordinaries, and to our beloved

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sons, both ecclesiastical and religious, and to all the faithful of Sicily. PIUS IX. "Venerable Brothers, and Beloved Sons, Greetings and Apostolic Benediction. Moved, or rather impelled, by many most serious and just reasons, We, by Our Apostolic Letters dated this day under the seal, and which shall remain perpetually valid, exercising Our Supreme Apostolic Authority, have extinguished, suppressed, and abolished, and do hereby extinguish, suppress, and abolish, the Apostolic Legation of Sicily, also called the Monarchy, the Delegate Judge and his Tribunal, and also the Tribunal of Messina, which was improperly instituted by the superior civil power towards the end of the last century, along with Notaries, Scribes, Ministers, and all other officials of whatever name, their dignities, offices, ministries, and all their titles and designations, entirely."

[*Latin ed. p. 187*]

APOSTOLIC LETTERS. We hereby revoke, and declare null and void, and abolish entirely, all privileges, faculties, and indulgences, which have been granted, either to them [the Sicilians] or to anyone else, by Us, or by any of Our predecessors, the Roman Pontiffs, and We decree that these things shall be considered and held as completely revoked, abolished, and extinct by all the faithful.

However, at the same time, deeply concerned for your well-being and good, and therefore desiring to alleviate your inconveniences with paternal solicitude, We have determined to establish another procedure by which, after the office and tribunal of the Delegate Judge have been abolished, causes pertaining to the ecclesiastical forum may be properly examined, judged, and brought to a proper conclusion; and therefore, We have considered it necessary to provide a special means for the examination and resolution of such causes within this very island.

From this, it is clear that the supreme aim of Our paternal concern for you is charity, and a special care for your advantages and benefits; but also that We have undertaken these measures in order to remove the most serious scandals and evils that have grievously afflicted the faithful of Sicily, and to promote the authority, dignity, and honor of the Church and of this Apostolic See, and the jurisdiction of the Bishops, and the salvation of souls.

Therefore, after long and careful deliberation, and after considering all things with the utmost diligence, as the gravity of the matter demanded, and after hearing certain Venerable Brothers, Our Cardinals of the Holy Roman Church, and our beloved sons, the officials of the Roman Curia, who are distinguished for their counsel, doctrine, and knowledge of sacred law, and for their expertise in the administration of affairs, We have decreed to establish, prescribe, and sanction the following rule, which We desire to be observed diligently and inviolably by all to whom it applies, both now and in the future, and We command and order that it be followed.

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I. All causes, not exempt from ecclesiastical jurisdiction, of whatever kind, which are brought for the first time before the ecclesiastical forum, shall be examined solely before the Ordinary of the place, and shall not be removed from his tribunal, except by appeal from a final judgment, or from an interlocutory decree.

[*Latin ed. p. 188*]

188 APOSTOLIC LETTERS. These possess definitive force, the weight of which cannot be remedied by appeal, or, if they have been pending before the Ordinaries for a complete period of two years from the date of the commencement of the dispute, they are considered either unjudged or undecided, as the decree of the Council of Trent (chapter 20, session 24, concerning reform) provides. If this is not the case, any appeal, prohibition, or judgment contrary to the prescription of that same Council shall be null and void from that very moment, and shall have no force or validity whatsoever.

11. An appeal from the judgment of the Ordinary shall be made to the Metropolitan, observing all the forms prescribed by the same Council. Where, however, the Metropolitan has pronounced judgment in the first instance as the Ordinary of the place, the appeal shall be made to the senior Bishop of the Province, as Apostolic Delegate. From judgments rendered in the first instance by the Archbishop of Catania, who has no suffragan Bishops, appeal shall be made to the Archbishop of Messina, as the Delegate of the Apostolic See.

III. From the Archimandrite of Messina, who exercises jurisdiction as a Bishop in certain towns or places belonging to no diocese of the Province of Messina, appeal shall be made to the Archbishop of Messina, as Apostolic Delegate.

IV. From the Abbot of Saint Lucy, who likewise exercises jurisdiction as a Bishop in one or more towns or places belonging to no diocese of the Province of Messina, appeal shall be made to the Archbishop of Messina, as Apostolic Delegate.

V. By these provisions, however, we do not intend to grant anything new in law to the Archimandrite of Messina and the Abbot of Saint Lucy.

VI. Any party who feels aggrieved by any part of the judgment rendered by the Metropolitan, or by the Bishop, as above, the senior of the Province, or the Delegate, may appeal to Us, or to the Roman Pontiff for the time being, so that the cause may be resolved in the Roman Curia according to the forms of law, or, if it seems more fitting to the same party, may request that the cognizance of the cause be entrusted to an ecclesiastical judge in the parts of Sicily, by Apostolic Letters, with necessary and appropriate clauses, as the law requires.

VII. Let all Ordinaries of places take care not to delay causes which are to

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be appealed, and which are to be treated before the Apostolic See, whether in the first instance or in any further instance.

[*Latin ed. p. 189*]

APOSTOLIC LETTERS. 189. In no way whatsoever shall they interfere, or become involved, but these [cases] shall be examined, according to the prescriptions of the aforementioned Council of Trent, and of the Sacred Canons, and of the Apostolic Constitutions, solely in the Roman Curia, or by Judges specifically appointed by the Roman Pontiff for the time being. Furthermore, let them also take care that to no one is denied the right, either in the first instance, or in a subsequent instance, to appeal to the Holy See for the examination and definition of other causes, which are called minor causes, provided that the parties agree. VIII. Moreover, to no Judge from the aforementioned first, second, or even third instances, nor to any other ecclesiastical Judge of any grade or condition, even if they are Legates distinguished by a high office, it shall ever be permitted at any time to absolve anyone, even in the case of recidivism, and for the sole purpose of carrying out, the ecclesiastical censures imposed by the Apostolic Constitutions, the absolution of which is reserved solely to the Roman Pontiff. Let all the aforementioned also take care not, after these same censures have been declared and promulgated by them, in any way to interfere, or become involved, in the examination of whether these, or their declarations, are valid, or invalid, just or unjust, since it is sufficiently clear, and has been established, that such an examination pertains only to the Roman Pontiff for the time being. IX. Furthermore, Archbishops, Bishops, and other ecclesiastical Judges, both Ordinary and others as mentioned above, or to be appointed, must completely conform in the definition of cases, and in the acceptance of appeals, to the Sacred Canons, the Council of Trent, the Apostolic Constitutions, and especially to the Decree of Our Predecessor, Clement VIII, published on October 16, 1600, beginning with the words "Ad tollendas," and to the Constitution of Our Predecessor, Benedict XIV, also, beginning with the words "Ad militantis Ecclesiae," of March 29, 1742. X. Since suspensions, which are usually imposed by Ordinaries based on informed conscience, cannot in any way be considered as cases that require a public trial, therefore those who are subject to such a suspension can only present their petitions to the Supreme Pontiff, and the aforementioned Judges cannot in any way become involved in such cases.

[*Latin ed. p. 190*]

190 APOSTOLIC LETTERS. XI. "In matters concerning the nullity of marriage, We command that the Constitution of Benedict XIV, Our Predecessor, which was published on the third of the Nones of November, in the year 1741, beginning with the words 'By the Mercy of God,' be observed. And the following articles, which must be diligently observed, are summa-

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rized as follows: 1. In each Diocese, the proper Ordinary must choose a patron or defender of marriage; a person of proven faith, skilled in canon law, and, if possible, from the clerical order. It will be permissible for the Ordinary to remove such a person from office for just reasons, and to appoint another who possesses the designated qualities. Furthermore, it will be permissible for the Ordinary to do so whenever the person designated for the office of defender is legitimately prevented from fulfilling the duties entrusted to him. 2. Furthermore, this defender, or patron, must be present in all cases instituted concerning the nullity or validity of marriage, and therefore he must be summoned to all matters and proceedings, and he must also be present at the examination of witnesses, and he must defend the validity of the marriage, both verbally and in writing, and he must present all arguments that he knows to be necessary and suitable for proving its value. 3. In order that the judgment concerning the validity of marriage may be complete and not be subject to the defect of nullity, it is necessary that the defender of the marriage be present in the judgment, whether one or both of the spouses are acting to prove the invalidity of the marriage, or whether both spouses are present in the judgment, one of whom challenges the validity of the marriage, while the other defends it. The defender of the marriage, assuming this office, must take a solemn oath to perform this office faithfully and properly, and he must renew this oath in each case. Any judicial act performed without the legitimate summons or notification of the defender of the marriage will be entirely void. 4. If a judgment is issued admitting the marriage, and no party brings an appeal, the defender of the marriage must abstain from appealing, and he must act in the same manner if the judge of second instance renders a judgment in favor of the validity of the marriage, even if the first judge has ruled in favor of nullity; but if the judgment has been rendered in favor of the invalidity of the marriage, in this case, it is necessary for the defender to bring an appeal from the judgment within the term defined by canon law, declaring that he adheres to the party that upholds the value of the marriage. But if no one exists who will appeal from a judgment against the marriage, the defender will, by virtue of his office, appeal from the same judgment. 5. While the

[*Latin ed. p. 191*]

APOSTOLIC LETTERS. f 91. By the appellation, whether arising from the initial judgment or from an appeal that has not been interposed, for whatever reason, if one or both spouses have intended to enter into new marriages, they shall be subject to the canonical sanctions against those who have dared to enter into marriages forbidden by the Church, and they will be especially subject to separation, until a final judgment has been rendered concerning the nullity of the marriage, from which no appeal has been interposed within ten days, or the same appeal has been abandoned: moreover, all the penalties prescribed by the sacred Canons and Apostolic

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Constitutions against bigamists shall apply. 6°. After the cause has been brought before the Judge of the second grade, all that was prescribed in the judgment of the first instance shall remain in force concerning the defender of the marriage. It will also pertain to the same judge of the second instance to choose the defender of the marriage, and so on in the judgments of subsequent grades. 7°. If both the first and second judgments declare the nullity of the marriage, and neither party, to whom it pertains, has interposed an appeal, and the defender, according to his conscience, deems it not necessary to appeal, or the interposed appeal is not pursued, then it will be permissible for both spouses to contract new marriages, provided that neither is prohibited from entering into a new marriage by a legitimate impediment, or for any other reason. However, the privilege of matrimonial causes shall remain in force, that is to say, judgments rendered in such causes can never, after any lapse of time, become res judicata; therefore, if something has been discovered, or has not been presented in the judicial discussion, or has been concealed by ignorance, the cause concerning the validity of the marriage can again be brought before the court. This privilege will always grant the spouses the faculty of contracting new marriages. But if either party appeals against the judgment rendered by the second instance concerning the validity of the marriage, or if the situation is such that the defender does not agree with it according to his conscience, either because it seems manifestly unjust or invalid to him; or if a judgment has been rendered in the third grade contrary to the judgment issued in the second grade concerning the validity of the marriage, then it will not be permissible for either spouse to enter into new marriages, under the aforementioned penalties, and the cause will again be examined in the third and fourth instances, with all and each of the things prescribed in the judgments of the first and second instances also pertaining to the marriage.

[*Latin ed. p. 192*]

192 APOSTOLIC LETTERS. concerning the defender. 8°. The defender of marriage will receive the emoluments described in the aforementioned Constitution of Benedict XIV. XII. » To the Regular clergy, and in their causes, no Archbishop or Bishop is granted, by these Letters, any authority whatsoever; but they shall exercise authority only in those, and in their He causes, in cases permitted by law, to the extent that it truly belongs to Ordinaries, according to the sacred Canons, the Council of Trent, and the Apostolic Constitutions. Therefore, the Ordinaries will in no way be able to exceed the limits prescribed by law, and they must not prevent the Superiors of the Regular Orders from freely exercising their jurisdiction and authority, and from proceeding according to the norms and procedures of the particular Constitutions of each Order; otherwise, judgments rendered by Archbishops and Bishops, and all other acts performed by them, will be entirely null and void. XIII. » But concerning those Religious who wish to

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promote a cause regarding the nullity of their profession, notwithstanding the Constitution issued by Benedict XIV, Our Predecessor, on the fourth day before the Ides of March, in the year 1747, which begins "If anyone," We command that the following be observed. If anyone wishes to institute a cause for the restoration of rights, calculating more than five years from the proceedings of the Council of Trent, he must supplicate the Apostolic See concerning this matter. If, however, from information obtained on this matter, the Supreme Pontiff finds that the prayers presented are based on just and valid arguments, in each case he will designate one, or several, Bishops of the same island in Sicily, to whom he will refer the prayers, so that they may hear the cause according to the procedures of law, and render a decision, and the decision rendered by them shall not be subject to appeal to any tribunal whatsoever. If it is determined that there is a place for the restoration of rights, or if anyone wishes to bring a cause within a five-year period concerning the nullity of a religious profession, the cause must be instituted before the Ordinary of the place, and the Superior of the Regular Order, who will sit as judge before the Ordinary. It will be permissible for the Ordinary to refer this cause to his tribunal for a decision; that tribunal will consist of the Vicar General, and of ecclesiastical persons, among whom the Superior of the Regular Order will sit as a judge, but in such a way that the number of judges is odd, and that all of them have the right to a decisive vote. A decision made in this manner by the Ordinary, or...

[*Latin ed. p. 193*]

APOSTOLIC LETTERS. If the [ecclesiastical] judge has declared the religious profession either valid or invalid, it shall be subject to a new review, so that two decisions consistent with each other may result. Therefore, the ordinary himself will communicate his decision to the Apostolic See, so that the Supreme Pontiff may appoint one or more bishops, as mentioned above, to institute a review of the case, and also, if he deems it appropriate, to judge the matter concerning the religious person. This new review shall be legally instituted either by one bishop or by several bishops. If the second decision differs from the first, we wish to provide for a third review, and therefore, the second decision, whether from one bishop or from several, shall be communicated to the Holy See, so that the case may be resolved in the Roman Curia according to the law, or so that the Roman Pontiff, if it is requested, may appoint another bishop or other bishops, as has been established, to institute a third review, and the third decision, as has been indicated above, shall also be communicated to the Apostolic See. After two decisions have been rendered concerning the invalidity of the religious profession, and if the defender of the profession does not consider it necessary to appeal, as has been prescribed above concerning marriage cases, then the religious person will be able to leave the Order as if bound by

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no vow; but if, after a single decision has been rendered concerning the invalidity, or even while it is pending, or after a review has been omitted, the religious person has dared to leave the cloister and abandon the religious Order, and to remove the habit proper to his Order, he will incur all the penalties and censures prescribed by the Sacred Canons and the Apostolic Constitutions against apostates, and he will be considered to be still bound by religious vows. Furthermore, in cases of restitution to a previous state, and in other matters concerning the invalidity of the religious profession, and in subsequent reviews, and in each of their parts, we absolutely wish to observe, and we command, the aforementioned Constitution of Benedict XIV, which begins "Si datam," but only in those articles or parts that do not contradict our aforementioned concessions; therefore, we believe it is necessary to briefly indicate which articles are to be observed.

1. The decree of Session 25 of the Council of Trent, chapter 19 concerning Regular Canons, also includes nuns.

2. The aforementioned procedures shall also be observed whenever a religious order complains of the invalidity of a profession made by a student.

3. The five-year period, within which there can be grounds for complaint, shall be calculated from the day of the profession, according to the records.

[*Latin ed. p. 194*]

194. APOSTOLIC LETTERS. In this case, even if the fear persists throughout the entire five-year period, and even beyond. 4°. The regular superior who will judge the case together with the Ordinary will be the Moderator, or the Superior actually in charge of the religious house, or monastery, in which the person who made the vows professed them; for nuns, who are subject to rules, it will be the regular superior to whom the administration of the monastery has been entrusted. Such regular superiors may, in their place, appoint another person from the clergy, whether regular or secular, who is, however, skilled in canon law. 5°. No religious person will be permitted to bring up the cause concerning the nullity of vows, unless it is first established that the person has been living within the enclosure, and has again put on the religious habit, if they had removed it. And during the course of the judgment, they will remain subject to the regular superiors of their order. 6°. Extrajudicial proofs will never be admitted; but the proceedings must be carried out in a legal form, in which articles are presented by the person who is contesting the validity of the profession; and questions, or interrogations, are proposed by the person who is defending the validity of the profession. Witnesses will be examined regarding the articles presented, as well as regarding the questions proposed. Any proceedings that lack this form, and any decision attached to them, will be subject to the vice of nullity, without excluding other defects for which they may be rendered invalid. 7°. Under the same penalty of nullity, the patrons, or defenders, of the religious house, or monastery, in which the person

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who made the vows professed them, as well as the relatives of the person who made the vows, and any other person to whom the person gave goods before taking vows, and also those persons who are considered to be, as if by fear, or as authors, or accomplices, will be summoned to testify, if, due to fear, an invalid profession of vows is presumed; and finally, all persons who may have an interest in the validity of the vows, or of the religious profession, will be summoned. Furthermore, in the initial case, or cause, and in subsequent reviews, a patron or defender of the religious profession will be chosen by the Ordinary, to whom the decision belongs, or by the Bishop, or Bishops, to whom the review has been entrusted, from among those who are outstanding in probity, faith, and knowledge of canon law, as in matrimonial causes; who, having taken an oath regarding the proper and faithful administration of their office, will then proceed to take up and assume.

[*Latin ed. p. 195*]

APOSTOLIC LETTERS. 195. With the same office, and then in each individual matter or cause to which he must attend, he shall be called and heard in all and each act, both verbally and in writing; likewise, under penalty of nullity, he shall be summoned to all matters or causes, and their revisions, as prescribed in matters concerning marriage. As for the remuneration of such a defender, the same shall be consulted according to the form of the aforementioned Constitution of Our Predecessor, Benedict XIV, § 8. In the judgment of restitution to the integral state, the Bishop or Bishops to be appointed by the Holy See shall appoint a patron or defender of religious profession, and furthermore, in carrying out the acts, and in their form, in summoning the parties who must be present, they shall observe all that which has been established above in matters instituted within five years. XIV. "Desirous of promoting the benefit and advantage of the people of Siculorum, We grant to all and each Archbishops, Bishops, and other Ordinaries of the Nullius Diocese existing in Sreilia, and also to canonically elected Capitular Vicars, a special faculty of granting matrimonial dispensations in the third and fourth degrees of consanguinity and affinity, whether simple or double, and also mixed, provided that it does not involve the first degree, and provided that there is a canonical reason, and the dispensation is granted entirely free of charge, without receiving absolutely any or the smallest payment, and only for the benefit of those who are truly poor. We wish and command, however, that in granting each dispensation, mention shall always be made of this special Apostolic faculty. And We also wish that this faculty granted by Us for granting the aforementioned matrimonial dispensations shall be understood by all in such a way that no one shall ever be able to interpret it as an impediment, so that the faithful of Siculorum, if it pleases them, may directly appeal to this Apostolic See to obtain the same dispensations. XV. "Finally, We declare that the faculty

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of dispensing over the aforementioned matrimonial impediments, and the other Apostolic concessions mentioned above, shall be valid for only ten years from the day on which these present Letters, with the Fisherman's Ring, and other Our Letters on this matter, published on this same day with the Lead seal, shall have been promulgated.

[*Latin ed. p. 196*]

196 APOSTOLIC LETTERS. "Notwithstanding, so that this may be accomplished, with the approval of the Most Blessed Boniface, Eighth Predecessor of Ours, and of the General Council concerning two diets, so that, by virtue of the present document, anyone may be brought to judgment for more than two, or even several diets, and with other Apostolic Constitutions and Ordinances, and also with all and each of those things which We have willed not to obstruct in Our Constitution published today, and with all other things, even those deserving of special and individual mention and derogation.

Now, indeed, with greater zeal than We can express, We admonish, urge, and beseech you, Venerable Brothers, that with that Episcopal fortitude with which all Sacred Ministers ought to be endowed, you take care to observe and fulfill all those things which We have established and sanctioned, and that you apply particular diligence, so that all those subject to you may most diligently carry them out. And We strongly stir up your zeal in the Lord, so that, especially in these calamitous times for the Christian and civil commonwealth, in which the enemies of God and of men attempt to invade the Citadel of Sion from every side with nefarious machinations, and to assault this See of Peter which Our Redeemer Jesus Christ established as a cornerstone, and as a wall of bronze against the princes of darkness, and to undermine the foundations of the most holy religion, and to corrupt the minds and hearts of all, that, for the sake of the position you hold, for the dignity with which you are adorned, and for the power which you have received from the Lord, you may courageously defend, uphold, and most diligently strive for the cause, the rights, the doctrine, the liberty, and the discipline of the Catholic Church, and for the salvation of souls. Therefore, let nothing remain attempted, nor anything left unexperienced, so that those entrusted to you may daily be more and more nourished with the words of faith, and inflamed with the sentiments of religion and piety, and may worthily walk before God, pleasing Him in all things, and may constantly adhere with the utmost devotion to Us and to this Chair of Peter, and may glory in professing due reverence and obedience to the laws, discipline, and sanctions of the Church and the Sacred Canons. And with the favor of all the heavenly gifts, and as a pledge of Our special benevolence towards you, We impart from the bottom of Our heart the Apostolic Benediction to you, Venerable Brothers, and beloved Sons. We wish that copies, or even printed examples, of these Letters be delivered

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by the hand of someone public."

[*Latin ed. p. 197*]

APOSTOLIC LETTERS. 197. Notaries shall be provided with documents bearing the signatures and the seal of a person of ecclesiastical dignity, and these documents shall have the same validity, both in court and outside of it, as if they were presented or shown in the presence of the parties. "Given in Rome, at Saint Peter's, under the Fisherman's Ring, on the 28th of January, in the year 1864." In the Eighteenth Year of Our Pontificate. N. Card. PARACCIANI CLARELLI. BY THE DIVINE PROVIDENCE OF OUR MOST HOLY LORD POPE PIUS IX, AN ENCYCLICAL LETTER TO ALL PATRIARCHS, PRIMATES, ARCHBISHOPS, AND BISHOPS OF THE ENTIRE CATHOLIC WORLD, POSSESSING COMMUNION WITH THE APOSTOLIC SEE. To the Venerable Brothers, Patriarchs, Primates, Archbishops, and Bishops of the entire Catholic World, possessing communion with the Apostolic See. PIUS IX, POPE. "Venerable Brothers, Greetings and Apostolic Benediction. Raise your eyes, Venerable Brothers, and you will see, and you will grieve with us deeply, at the most grievous abominations by which the unhappy Italy is now particularly afflicted. We humbly adore the inscrutable judgments of God, to whom it has pleased to allow us to live in these most sorrowful times, in which, through the actions of some men, and especially of those who govern and administer the republic in unhappy Italy, the venerable commandments of God and the sacred laws of the Church are plainly disregarded, and impiety openly flourishes and triumphs. From this..."

[*Latin ed. p. 198*]

198 APOSTOLIC LETTERS. All the injustices, evils, and damages which, with the greatest sorrow of Our mind, We observe. Hence, those numerous bands of men, who walk in wickedness, fight under the banner of Satan, on whose forehead is written "Lying," and who, called by the name of rebellion, and raising their mouths to heaven, blaspheme God, pollute all sacred things, despise them, and, trampling upon all divine and human rights, like ravenous wolves craving prey, shed blood and destroy souls with their most grievous scandals, and unjustly seek gain from their own wickedness, and violently seize that which is another's, and afflict the weak and poor, increase the number of miserable widows and orphans, and, receiving gifts, grant pardon to the impious, while denying justice to the just, and robbing them, and with corrupt hearts, strive to satisfy every wickedness with the greatest detriment to the entire civil society. "We are surrounded by this multitude of lost men, Venerable Brothers. These men, animated by a truly diabolical spirit, wish to set up the banner of falsehood in this very beloved city of Ours, near the Chair of Peter, the center of Catholic truth and unity. And the Governors of the Subalpine Government, who ought to restrain

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such men, do not hesitate to foster them in every way, to provide them with arms and all things, and to fortify the entrance to this city. But all these men, although placed in the highest rank and position of civil power, should be afraid; for by this very wicked manner of acting, they bind themselves in new snares of ecclesiastical punishments and censures. Although We, with all the humility of Our heart, ceaselessly pray and implore God, that He may deign to bring all these miserable men to salutary repentance, and to the right path of justice, religion, and piety; nevertheless, We cannot remain silent concerning the most serious dangers to which We are exposed in this hour of darkness. With a completely tranquil mind, We await whatever events may occur, even if provoked by nefarious frauds, calumnies, plots, and lies, placing all Our hope and trust in Our saving God, who is our help and strength in all Our tribulations, and who will not suffer those who hope in Him to be disappointed, and who subverts the plots of the wicked, and breaks the necks of the sinners." In the meantime, We cannot,

[*Latin ed. p. 199*]

APOSTOLIC LETTERS. 199 To you, Venerable Brothers, and to all those entrusted to your care, we announce the most grievous condition and the greatest dangers in which we are presently engaged, particularly through the actions of the Subalpine Government. Although we are defended by our most faithful army, which, having accomplished great deeds, has shown forth a virtue almost heroic; nevertheless, it is clear that we cannot long resist a far greater number of unjust aggressors. And although we find some consolation in the filial piety with which the remaining subjects of Our authority, reduced to a few by those wicked usurpers, follow Us, we are nevertheless compelled to grieve deeply, because they cannot fail to feel the most serious dangers threatening them from the hordes of infamous men who constantly terrify them with threats, rob them, and seek to destroy them in every way. "But we are compelled to deplore other evils that are never sufficiently lamentable, Venerable Brothers. Especially from Our Consistorial Address given on October 29th of last year, and subsequently from a narrative accompanied by documents, and published in print, you have learned how grievously the Catholic Church and its children are afflicted and harmed in the Russian Empire and the Kingdom of Poland. For Catholic priests and ecclesiastical men, and lay faithful, have been exiled, imprisoned, and in every way persecuted and deprived of their own property, and afflicted and oppressed by the most severe punishments, and the canons and laws of the Church are utterly disregarded. And not content with this, the Russian Government continues to violate the discipline of the Church, and to break the bonds of union and communion of those faithful with Us and with this Holy See, and it strives and seeks to utterly destroy the Catholic religion in those territories, and to tear those faithful away from the bosom of the Catholic

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Church, and to lead them into the most grievous schism. With incredible sorrow of mind, We inform you that two decrees have recently been issued by that Government after Our last mentioned Address. And by a decree published on May 22nd of the following month, the Podlachian Diocese in the Kingdom of Poland, together with its Canon Regular College, General Consistory, and Diocesan Seminary, was completely abolished, and the Bishop of that Diocese, torn from his flock, was forced to leave the boundaries of the Diocese. This decree is similar to that of June 3rd..."

[*Latin ed. p. 200*]

200 APOSTOLIC LETTERS. The preceding year, a work was published concerning which we could not speak, since we were unaware of it. Therefore, this same government did not hesitate to, by its own judgment and authority, abolish the Diocese of Kamieniec, and to dissolve its Chapter, its Consistory, and its Seminary, and to forcibly remove its proper Bishop from that Diocese. "Since every path and means is closed to us by which we can communicate with those faithful, and so that no one may be exposed to imprisonment, exile, or other punishments, we were compelled to insert in our Annals a document by which, exercising the legitimate jurisdiction of those vast dioceses, and considering the spiritual needs of the faithful, we deemed it advisable that knowledge of this should reach them through the aid of the printing press. Everyone easily understands with what intention and for what purpose such decrees are issued by the Russian government, when to the absence of many bishops, the suppression of dioceses is also added." "What adds to our bitterness, Venerable Brothers, is another decree promulgated by the same government on the 22nd of last month of May, by which a college was established in St. Petersburg, called the Roman Catholic ecclesiastical college, which is presided over by the Archbishop of Mohiloviensis. Namely: all petitions, pertaining even to matters of faith and conscience, which are sent to us and to this Apostolic See by the bishops, clergy, and faithful people of the Russian Empire and the Kingdom of Polonia, must first be transmitted to this college, and this college itself must examine them, and decide whether the petitions of the bishops should be disregarded, and in this case, to take care that they are brought to us. After our decision has reached them, the President of the aforementioned college is obliged to send the decision itself to the Minister of Internal Affairs, who will determine whether anything in it is contrary to the laws of the State and the rights of the Supreme Prince; and if this is not the case, he will execute it according to his own judgment and will. "You see, Venerable Brothers, how vehemently such a decree, issued by a secular and schismatic power, must be condemned and rejected, by which the divine constitution of the Catholic Church is destroyed, and ecclesiastical discipline is subverted, and

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the highest authority of Our Pontificate, and of this Holy See, is..."

[*Latin ed. p. 201*]

APOSTOLIC LETTERS. Injury is inflicted upon the authority and power of the bishops, and the liberty of the Supreme Pastor of all the faithful is hindered, and the faithful are driven to the most grievous schism; and even natural right is violated "in matters concerning faith and conscience." To these things, the Catholic Academy of Warsaw has been abolished; and the sad ruin threatens the dioceses of Ghelm and Betti of the Ruthenians. And it is most deplorable that a certain priest, "Wajcicki," of suspected faith, having disregarded all ecclesiastical penalties and censures, and having set aside the terrible judgment of God, has not been deterred, but has received the administration and governance of that diocese from that civil power, and has already issued various decrees which, while contrary to ecclesiastical discipline, favor the most grievous schism." Therefore, in these great calamities and distresses of Ours and of the Church, when there is no one to fight for Us except the Lord God Ourself, We also and again earnestly implore you, Venerable Brothers, that, for the sake of your singular love and concern for the Catholic cause, and for your outstanding piety towards Us, you may join your most fervent prayers with Ours, and together with your entire clergy and faithful people, pray and beseech God without ceasing, that He, remembering His mercies, which have been from the beginning, may turn His indignation away from Us, and deliver His holy Church, and Us from so many evils, and that He may help, defend, and keep steadfast, firm, and strengthened in the profession of the Catholic faith and of its salutary doctrine those sons of the same Church, who are most dear to Us, in almost all regions, and especially in Italy and in the Russian Empire and in the Kingdom of Poland, who are subjected to so many dangers, and afflicted by so many troubles, by His almighty power; and may He frustrate all impious designs of enemies of men; and may He bring those who have strayed from the path of righteousness back to the way of salvation, and lead them into the way of His commandments." Therefore, We wish that in your dioceses public prayers be held for this purpose, according to your judgment, for three days within six months, and for those beyond the seas, within a year. And that the faithful may attend these public prayers with greater zeal and implore God, to all and each Christian of both sexes who shall have devotedly attended these prayers for the aforementioned three days, and for the present...

[*Latin ed. p. 202*]

202 APOSTOLIC LETTERS. That the needs of the Church may be fulfilled, that they may have prayed to God according to Our intention, and that they may have been absolved through the Sacrament of Confession and strengthened through the Holy Communion, We grant, with merciful

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kindness in the Lord, a plenary indulgence for all their sins; and to the faithful who, at least with a contrite heart, have completed the aforementioned works on any of the designated days, We grant the remission of seven years and as many forty hours of the penances prescribed to them, or of any other debts of penance, according to the custom of the Church. We also grant, in the Lord, that all these and each of these indulgences, remissions of sins, and relaxations of penances, may also be applied for the benefit of the souls of the Christian faithful who, united with God in charity, have departed from this life. To those who act otherwise, notwithstanding, We offer no impediment. Finally, nothing is certainly more pleasing to Us than to seize this very opportunity to freely express and reaffirm the special benevolence with which We embrace you in the Lord. As a certain pledge of this, receive the Apostolic Blessing, which We impart with heartfelt affection to you yourselves, Venerable Brothers, and to all the Clergy and lay faithful entrusted to your care.

Given at Rome, near St. Peter, on the 17th of October, in the year 1867, in the twenty-second year of Our Pontificate.

PIUS PP. IX.

[*Latin ed. p. 203*]

203 FROM THE ACTS OF THE COUNCIL OF TRENT. In the official gazette of the City, the following decree was published, for this reason, so that it may come to the knowledge of those concerned through public publication. Regarding this matter, one may recall what we wrote when publishing another decree in Volume II, page 610. DECREE. Issued by the Sacred Congregation of Bishops and Regulars, Interpreters and Defenders of the Council of Trent, by order of the Most Holy Father. "By a decree issued by the Russian government last year, the diocese of Kamieniec was suppressed. Now, another decree of the same government, dated May 22nd of the past year, has been issued, by which the diocese of Podlachia, or Janow, together with the cathedral chapter, the general consistory, and the seminary, have been abolished, and the Reverend Bishop Benjamin Szymanski has been forced to leave the territory of his Church." THE MOST HOLY FATHER, OUR LORD POPE PIUS X, in the face of such a grave situation, while raising his voice against such bold and utterly sacrilegious acts perpetrated by secular power, and condemning them; earnestly desiring to provide for the spiritual needs of the aforementioned diocese, and to exercise legitimate jurisdiction, ordered that the administration and governance of the same diocese of Podlachia be entrusted to the Reverend Monsignor Casimir Sosnowski, Chapter Vicar of the Church of Lublin, until the aforementioned Bishop is able to properly govern and administer his diocese. Therefore, the same MOST HOLY FATHER grants to the Reverend

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Monsignor Casimir Sosnowski, Chapter Vicar of Lublin, by the force of this decree, all necessary and appropriate powers for the proper administration of the aforementioned Church, with the exception of those that require the Episcopal order, for the good of the Holy See."

[*Latin ed. p. 204*]

204 DECREE. [It is decreed] that [he] shall possess the powers and shall continue to hold them, until otherwise provision can be made, by which he may exercise all and each of those things which, by law, privilege, and custom, he legitimately exercises in the Lublin diocese as Vicar Capitular, or Ordinary, or by ordinary right, or by general, or special delegation, and therefore the clergy and the faithful people shall recognize him as the extraordinary Rector of the Podlachian, or Janovian, diocese, and shall faithfully and obediently receive and execute his prescriptions, mandates, and admonitions. "And that, as much as possible, the safety of those faithful entrusted to him may be diligently cared for, who are followed with the greatest charity by the MOST HOLY LORD, and that the bond of unity, by which that part of the Lord's flock is bound to the Chair of Peter, may be preserved entire amidst difficulties. " Given in Rome from this Holy Congregation of the Council on this 17th day of October, 1867. PROSPER Card. CATERINI, Prefect. PETJBUS, Archbishop of Sardinia, Pro-Secretary. FROM THE HOLY CONGREGATION OF THE INQUISITION. We report the following documents, which we know have been made public: they concern certain philosophical doctrines which have been proposed to the Apostolic See and have been rejected. PROPOSITIONS REJECTED CONCERNING ONTOLOGY AND THE MODE OF EXPLAINING CREATION. On September 18, 1861. "It was requested by the Holy Roman and Universal Congregation of the Inquisition whether the following propositions could be safely taught: I. Immediate knowledge of God, at least habitual, is essential to human intellect, so that without it, it can know nothing; indeed, it is the very light of intellect."

[*Latin ed. p. 205*]

PROPOSITIONS REJECTED, ETC. 205 I I. "That which is understood by all, and without which nothing is understood, is the Divine." III. "Universals, considered from the side of reality, are not truly distinguished by God." IV. "The innate knowledge of God, as a simple being, eminently involves all other knowledge, so that through it, we implicitly know that every being is knowable in every respect." V. "All other ideas are nothing but modifications of the idea in which God is understood as a simple being." VI. "Created things are in God as a part in the whole, not indeed in the whole formally, but in the whole, infinitely simple, which places its quasi-parts outside itself without any division or diminution of itself." VII. "Creation can be explained thus: God, by a special act in which He understands and

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wills Himself as distinct from a particular creature, for example, a man, produces that creature." "Thursday, September 18, 1861." "In the general congregation held in the convent of S. M. sopra Minerva, before the Most Eminent and Most Reverend DD. of the Holy Roman Church, Cardinals, against the heretical perversion throughout the Christian republic, the General Inquisitors, with the prior vote of the DD. Consultors, answered 'No' to all and each of the proposed doubts." "At the place of the Sign of the Silver Angel, Holy Roman Church and United. I. Notary." FROM WHICH ONE GATHERS: L "The present propositions, and each of them, which have been taught by some Catholics in Catholic schools, have been proposed to the Holy See and have been most carefully examined and judged to be not true (1)." (i) I have said most carefully: for if in other sacred congregations, judgments are not issued without a lengthy examination and discussion, in the Supreme Congregation of the Inquisition, the most orderly method is followed, and so many learned men are brought in before the Holy Congregation discusses and judges the matter, so that scarcely anything more can be desired for the proper issuing of judgments, as in human judgments.

[*Latin ed. p. 206*]

206. PROPOSITIONS REJECTED, ETC. XI. It is not without error that some Ontologists assert that these propositions were rejected because they express a pantheistic doctrine; or that they were rejected only in a purely pantheistic sense, and twisted; for in that case, they would not have been rejected merely as being untrustworthy, but would have been entirely condemned or marked with a more explicit declaration.

XIII. Therefore, they are to be understood as rejected to the extent that they contain a new doctrine called Ontologism, the foundations or consequences of which, more or less remotely, are clearly expressed in the very words (1).

CONCERNING A PHILOSOPHICAL DOCTRINE TAUGHT IN HIS WORKS BY THE DOCTOR DECURIALIS, C.C. UBAGHS.

From the year 1843, certain philosophical works by G. C. Ubaghs, Professor at the renowned Catholic University of Cattolica, were submitted to the Holy See, and from the beginning, the Sacred Congregation of the Index judged certain propositions worthy of note, and subsequently transmitted a sheet of notations. June 3, 1843. "The Reverend Father Ubaghs, in his Theodicy, and sometimes also in his Logic, teaches the following propositions, which the Sacred Congregation of the Index judges to be in need of correction."

I. "We cannot come to the knowledge of any external metaphysical truth (namely, those things which do not fall under our senses) without the instruction of another, and in the ultimate analysis, without divine revelation."

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"Furthermore, this doctrine cannot be admitted, because, as the author himself confesses, just as internal and mathematical truths can be known through reasoning, so at least it is possible to know external truths (1)."

Regarding these propositions, the Roman ephemeris entitled *La Civiltà Cattolica* has treated them accurately and thoroughly in recent issues, 419, 420, and following.

[*Latin ed. p. 207*]

PROPOSITIONS REJECTED, ETC. 207, are to be followed whenever they are necessarily connected with internal principles; or when the internal principles themselves cannot stand without some external truth.

II. "External metaphysical truths cannot properly be demonstrated." (See Theod. p. 220, n. 413 et seq.)

III. "External truths are sometimes necessarily connected with internal truths, as effect with cause, and therefore they can be demonstrated by that kind of argument which is called a posteriori, whose certainty is no less than that which is obtained by a priori demonstration."

IV. "The existence of God cannot at all be demonstrated. We deny that God can be demonstrated a priori." (Theod. p. 73.) "This troublesome doctrine, in turn, flows from opinions already judged by the author himself."

V. "Proofs of the existence of God are reduced to a certain faith, or are based on this faith, by which we do not so much see as we believe, or we are naturally persuaded that this idea is true, which we cannot perceive with mere internal evidence." (Theod. p. 73.) "These words seem to mean rather that the existence of God is to be believed than demonstrated; which is quite different from the truth."

VI. "The author reduces all proofs of external metaphysical truths to common sense."

"This doctrine cannot be admitted, because some external truths are demonstrated a posteriori by internal truths, without any relation to common sense. Thus, having the consciousness of our own existence, we directly infer the existence of a cause that has given us this existence; or we deduce one external truth from another internal truth without the intervention of common sense."

"These are the principal opinions that seem to need correction in the aforementioned book. Therefore, the Holy Congregation advises the Reverend Author to take care to amend his book in a new edition; and in the meantime, to refrain from teaching these opinions in his scholastic lectures."

Glaris. The Author, in order to satisfy the observations of the Holy Congregation, and to clear his doctrine from all suspicion, prepared a small

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book.

[*Latin ed. p. 208*]

208. REPROBATED PROPOSITIONS, ETC. A memorial was written on December 9, 1843, by which it was referred to the Sacred Congregation of the Index for examination; the following document was presented in La Feuillee on August 8, 1844. "Certain passages in the work by the Reverend Father G. C. Ubaghs, published in Louvain in 1841, and entitled *Theodicea, seu Theologiae naturalis elementa*, appear to require attention, so that the most learned author, with the addition of certain elucidations, may remove the difficulties that have arisen concerning the understanding of the same work: And first, those passages on page 73, concerning the existence of God, are noteworthy. We deny that the existence of God can be demonstrated, but we affirm, repeatedly, that it can be proven with the greatest certainty. Certainly, all ambiguity would be removed from this passage if, after the word "demonstrated," the phrase "a priori" were added, which would be in accordance with what the author states in Logic, page 114, in the third division on demonstrations, where he shows, contrary to the Kantian view, that a posterior demonstration rightly and deservedly deserves to be called a true demonstration. Furthermore, the author states on page 105: "To demonstrate, if understood strictly, is the same as to prove that a judgment is certain, as it is presented." No one, however, will deny that the proofs of the existence of God have such force that they correspond to the strict notion of demonstration that is presented here by the Reverend author. Secondly, where the author calls for the examination of various kinds of arguments that are commonly adduced to demonstrate the existence of God, certain observations seem worthy of note: In *Theodicea*, page 86, speaking of physical arguments, he says: "Although it can be proven, by a direct impulse of our rational nature, etc., that He is truly infinite in power and intelligence, it cannot, however, be achieved solely by considering physical arguments strictly according to the laws of logic." On page 87, concerning the arguments that are called moral, he expresses himself as follows: "In these, the true infinity of God, expressly contained, has not yet been fully demonstrated according to the strict laws of logic." Furthermore, adding certain things about arguments from the infinite being, he concludes: "We must continuously supplement, with a natural and spontaneous faith, what seems to be lacking to that sole logical proof, if it were taken in the strictest sense, in order to conceive an accurate notion of God, and to fully prove the true existence of God." Finally, o..."

[*Latin ed. p. 209*]

PROPOSITIONS REPROBATED, ETC. 209, p. 89: "It is indeed possible to make probable conjectures concerning the first cause, or the first causes (for we certainly do not know whether one or many are to be considered), and

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concerning their properties." In all of this, the meaning of the most learned author seems to require a somewhat clearer explanation, lest anyone take advantage of this to elevate the force of arguments that demonstrate the existence of God. 3°. "The most esteemed author, in chapter 7, p. 3, of *Theod[orus]*, confesses that he wishes 'more explicitly, and as much as possible, to declare' those things that pertain to the knowledge of truth." However, certain passages are found there, concerning whose meaning doubts might arise: on p. 216, the following is found: "We can immediately know internal truth, but not external truth, without the intervention of faith." And on p. 219, "It is necessary... that an external institution make manifest to us truths which are neither mere affections of the mind, nor fall under our senses." Several other passages of the same kind are found there, which might, contrary to the author's intention, be twisted to suit the views of others, and used to weaken the power of human reason, and to undermine the arguments that are used to demonstrate external truths, so that they do not offer that certainty which is entirely necessary for man. However, although the author had made new editions, he was not seen to have departed from the principles of his doctrine, and the controversies that had arisen previously were clarified. The Bishops, being eager for concord, entered into consultation with the Most Reverend Archbishop of Mechlin, in order to maintain peace and to settle the controversies, until the Apostolic See deemed it opportune to pronounce a definitive judgment on these doctrines: for this reason, they wrote letters to the Most Magnificent Rector of the University on July 31, 1861. In the meantime, four Professors of Philosophy had already presented such opinions to Cardinal De Andrea, who then presided over the Sacred Congregation of the Index, on February 1, 1860; who, in his own name, replied on March 1 of the same year: "The aforementioned doctrine should rightly be considered among those questions which Christian philosophers can freely discuss on either side." However, the letters of Cardinal De Andrea, which were improperly cited (for they were not from the Sacred Congregation), stirred up the controversy even more, and the letters of the Bishops did not succeed in calming it. Therefore, some Bishops petitioned the Most Holy Father that he would declare...

[*Latin ed. p. 210*]

210 PROPOSITIONS REJECTED, ETC. concerning what ought to be thought about these doctrines. The Most Blessed Father transmitted the following letter. TO OUR DEAR SON, ENGELBERT, S.R.E., PRESBYTER, CARDINAL STERKCX, ARCHBISHOP OF MECHLIN, AND TO THE VENERABLE BROTHERS, HIS SUFFRAGAN BISHOPS IN BELGIUM. PIUS IX, POPE. "Our Dear Son, and Venerable Brothers, Greetings and Apostolic Benediction. "To the many and most serious grievances with which We are afflicted, either from the very beginning of Our Supreme

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Pontificate, or especially during these most difficult times, has been added the pain aroused by troublesome questions arising here, concerning differing opinions on certain principles employed in the transmission of philosophical and theological knowledge in the Catholic University of Louvain. However, We were not without some consolation, knowing that you, Our Dear Son, and Venerable Brothers, adhering to Our directives and the messages of this Apostolic See, were gathered together in Mechlin last month of July, for other matters concerning the same University, and that you also devoted some of your attention to devising a plan whereby such controversies might be completely removed and extinguished. This consolation greatly increased when We understood that your efforts had borne fruit in a letter which, on the 31st of that same month of July, you jointly presented to the Most Illustrious Rector of that University. For in that letter, it is evident and shines forth that study of concord and prudence, so very necessary for maintaining peace, and for removing whatever may hinder Christian peace and the public edification of the faithful. And We were even more filled with joy when We learned that the Professors of the University of Louvain, obediently accepting the advice and regulations expressed by you in that same letter, unanimously declared that they fully adhered to those same advice and regulations, without any exception. But while We were rejoicing greatly that the controversy had come to an end, We are certainly deeply saddened by..."

[*Latin ed. p. 211*]

PROPOSITIONS REJECTED, ETC. 211. We know, through articles inserted in public newspapers and other recently published writings, that efforts have been made to revive the controversy, and for this purpose, decisions issued and approved by Our Congregations have been invoked, which, in fact, do not exist. This has happened because some people have wished to attribute a certain importance to a document that is completely devoid of it, since the context and wording of that document clearly exclude any idea of a decision by the Congregation, and it provides no indication that Our authority was involved, which, in truth, was not involved. Therefore, with the countless and greatest benefits that derive from mutual harmony between minds always before us, without which religion and science can never achieve prosperous results, it is Our most heartfelt desire, Beloved Son and Venerable Brothers, to remove and eliminate completely every opportunity that might in any way, even slightly, disturb or diminish that very harmony. Therefore, without expressing any judgment on the merits of the doctrines that have stirred up the present controversy, and whose definitive examination and judgment belongs solely to this Apostolic See, We wish and command that both those who favor and those who oppose these doctrines abstain completely, until this Holy See has pronounced a definitive judgment on them, from teaching, or from any kind of

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writings, or from publishing them in print, or from distributing them in any way, either with the author's name or without it, and from exhibiting or defending any of the aforementioned philosophical and theological doctrines as if they were the only ones, true, and to be admitted, or as if they were the doctrines proper to the Catholic University. Furthermore, We command that, under any pretext, they abstain from raising again new questions on this matter, which are most harmful to Christian charity and the salvation of souls. It will be your task, Beloved Son and Venerable Brothers, to communicate this Our Pontifical ordinance and will to those entrusted to your care, which, as We trust, with God's help, will lead to the desired peace and harmony, and to preserving and fostering them. We are certain that you, through your outstanding pastoral concern, will take all measures and devote all your thoughts to achieving that very end, and with the utmost diligence.

[*Latin ed. p. 212*]

212 PROPOSITIONS REJECTED, etc. Furthermore, when it shall be necessary, prudent and opportune counsels will be carefully considered with the unanimous consent of you all, concerning the method of teaching at the University of Louvain, and each of you will diligently strive to ensure the same in your own Diocese. Indeed, we hope that the clergy of Belgium, because of that excellent quality which they have always displayed towards Us and this Holy See, will receive this Our decree with all docility and obedience, which, for very serious reasons, and with particular circumstances of affairs and times, We have deemed necessary to issue, in order to promote the greater benefit of Our most holy religion in this kingdom. Finally, on this very occasion, We gladly take the opportunity to again testify and confirm Our special benevolence towards you. And We wish this to be the surest pledge of Our Apostolic Blessing, which, proceeding from the depths of Our heart, and joined with every true wish for your happiness, We impart to you, Our beloved Sons, and Venerable Brothers, and to all the clergy and laity faithful entrusted to your care, with paternal affection. "Given at Rome, at St. Peter's, on the 19th of December, in the 16th year of Our Pontificate. PIUS IX, Pope." Then the Holy Father entrusted the entire matter to two Sacred Congregations, namely the Supreme Sacred Congregation of the Inquisition and the Sacred Congregation of the Index. What the Most Eminent Fathers judged is evident from the following letter. "Illustrious and Most Reverend Brother: "Since, for several years now, the question concerning the doctrine taught by certain Doctors of the University of Louvain regarding the power of human reason has been raised in these regions, the Most Holy Lord, who, placed at the summit of the Apostolic See, is obliged to watch over His flock so that no false doctrine may be spread, has entrusted the examination of this question to two Sacred Congregations of His Holiness, namely the Sacred Congrega-

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tion of the Holy Office and the Sacred Congregation of the Index. Indeed, when such an examination was to be instituted, the resolutions which the aforementioned Sacred Congregation of the Index issued in the years 1843 and 1844 were kept in view, after..."

[*Latin ed. p. 213*]

PROPOSITIONS REJECTED, ETC. 210. The works of Gerard Casimir Ubaghs, Doctor of the University of Louvain, particularly his treatises on Logic and Theodicy, have been judged. Indeed, the Sacred Congregation, after mature deliberation in two meetings held on June 23, 1843, and August 8, 1844, deemed it necessary to correct the doctrines presented in both the Logic and the Theodicy, whether they pertain to the metaphysical or moral order, and especially those concerning the existence of God. This is evident from two sheets of notes, which, by the authority of Pope Gregory XVI, were transmitted to the Most Eminent Cardinal Archbishop of Mechlin by the Apostolic Nunciature, for the purpose of warning the author of the work – "that he take care to correct his book in a new edition, and in the meantime refrain from teaching those opinions in his lectures." These two sheets of notes are very similar; if a slight change has been made in the later sheet, it is to be noted that the author submitted the book to the Most Reverend Archbishop on December 8, 1843, with the intention of explaining the reasons for his doctrines and clearing himself from any suspicion of error. Indeed, although the same Most Reverend Council carefully examined the book, it did not depart from its judgment, and therefore judged that these treatises, and in particular the treatise on Theodicy, which had been printed and were circulating among all, and were publicly explained in the university and other schools, should be corrected. It must be admitted that after the year 1844, some actions occurred in which praise was given to the aforementioned Doctor of Louvain, as if he had conformed in his later editions of his works to the will and judgment of the Sacred Congregation; but it is certain that the two sheets of notes were written after the judgment of the Sacred Congregation, which was confirmed by the authority of the Supreme Pontiff, and it is equally certain that these later actions do not contain the judgment of the Sacred Congregation, and much less the judgment of the Supreme Pontiff, which can be seen by those who read these actions. Since this is the case, it seemed necessary to investigate and consider whether the aforementioned Doctor of Louvain, in the editions of Logic and Theodicy which he produced after August 8, 1844, has accurately followed what was instilled in him by the Sacred Congregation regarding the correction of the books.

[*Latin ed. p. 214*]

214. PROPOSITIONS REPROBATED, ETC., were found in the aforementioned sheets of notes, which had been transmitted to the Cardinal Arch-

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bishop by the same author. Furthermore, after a long and thorough examination of these matters, the aforementioned Cardinals, both those presiding over the Holy Inquisition and those responsible for reviewing books, after a meeting held on September 21st of the preceding year, judged that the recent editions of his writings had not been corrected in accordance with the notations of the aforementioned Holy Congregation, and that the principles of doctrine which it had been prescribed to correct were still found therein.

Indeed, the author himself openly confesses this in a recent letter to the Most Eminent Cardinal Ludovicus Altieri, Prefect of the Holy Congregation for Reviewing Books. He writes that he has so far published four editions of his *Theodicy*, the first being in the year 1841, which was initially submitted to the judgment of the Holy See, and the second in the year 1845, printed shortly after the notations were proposed by the Holy Cardinal Congregation. Both editions, as he himself confesses in his own words, are "completely the same, with the same number of chapters, paragraphs, and pages, the same expressions; they differ only in that the second edition contains a few notes and some phrases of a different kind, which may perhaps fill about twelve pages." Furthermore, he continues, the third edition, in the year 1852, and the fourth edition, in the year 1863, are also very similar to each other, and differ from the preceding editions only in appearance, not in doctrine.

Regarding logic, when he again submitted his treatise to the printers after receiving the notations of the Holy Congregation, he stated the following in the preface: "Although I have made changes in the writing, I have never considered it necessary to deviate in any way from the principles which I had adopted in the earlier editions, although I would not have hesitated to reject or change them if anyone had shown them to be false or less correct."

Therefore, the aforementioned Cardinals also judged that the author should fulfill what he has not yet done, namely, to correct the doctrine in all those places or chapters which the Holy Congregation for Reviewing Books has deemed less acceptable, in accordance with the notations contained in the aforementioned two sheets, and particularly in the first, since it explains the matter more clearly and distinctly. However, it should not be understood from this that the remaining doctrines contained in the aforementioned works of the author are approved.

[*Latin ed. p. 215*]

PROPOSITIONS REJECTED, ETC. 215. Furthermore, the opinion of the Fathers of the Council was approved and confirmed by the Most Holy Pope Pius IX. "Since this is the case, I, as Cardinal in Mechlin, will, according to the requests made to me, remind the aforementioned Doctor Gerard Casimir Ubaghs of his duty, and I will urge him more strongly to

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completely conform his teachings to the notations presented by the Holy Council; and I will, together with the Archbishop and other suffragan Bishops, make every effort to ensure that this opinion of the Fathers of the Council is carried out without any delay, and that these teachings are no longer explained, either in this Louvain University, which is under the authority of the Archbishop of Mechlin and the suffragan prelates, or in the schools of the seminaries and other lyceums, since, as soon as they were presented to the judgment of the Apostolic See, they were deemed worthy of being embraced by Catholic schools." These things were made known to me in the name of the Fathers of the Council, to Your Eminence, to whom I pray for all good things and happiness from the Lord. To Your Eminence in Rome, on October 11, 1864. Your most devoted brother, C. Cardinal PATRIZI. Doctor Ubaghs prepared a new edition of his Logic and Theodicy in the year 1865. Some of the Belgian prelates considered that the same author had not sufficiently fulfilled what had been impressed upon him by the Fathers of the Council, even in this latest edition. Therefore, this new edition was recalled for examination by the Holy Congregation, and the following document was issued: "Regarding the philosophical books of G. C. Ubaghs, Doctor of the Louvain University, and especially regarding the latest edition of his treatises on Logic and Theodicy, completed by him in the year 1865, which has not yet been published, the Most Eminent Cardinals, convened together in the Holy Congregation, both of the Holy Inquisition and of those responsible for examining books, on February 21st of the past year, conducted a most careful examination. In the first place, with regard to the doctrines that the Holy Congregation of the Index has already noted since the years 1843 and 1844, they could not but, with great concern, observe that the aforementioned author, in the aforementioned latest edition of the treatises, had not sufficiently corrected the external form.

[*Latin ed. p. 216*]

216. The propositions which had been previously condemned had, indeed, been softened in their harshness, and sometimes the wording made more gentle; nevertheless, concerning the substance, they now teach the same principles that were found in the preceding editions; therefore, they judged that this latest edition had not been corrected according to the notes transmitted to the author in the years 1843 and 1844, and those two admonitions from the Sacred Congregations of the Holy Office and the Index, in the year 1864. Furthermore, as the aforementioned Cardinals had reserved for themselves, according to my letters to the individual Bishops in Belgium dated October 11, 1864, the examination of other doctrines contained in more recent editions of the works of the same author. And they clearly perceived that in those books, doctrines were transmitted that were entirely similar to some of the seven propositions which Your Eminence will

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find enunciated in the attached sheet, and which the Most Holy Congregation of the Holy Office judged on September 18, 1861, not to be able to be safely transmitted (1); and that other opinions were also expressed in those same books, which are exposed with undue boldness. Therefore, it was most necessary to declare and correct those things which are read in the book *Anthropologia*, published in Louvain in 1848, on page 221, number 428, concerning the opinion which they call "Traducianism," and which are found there on pages 457 and 458, number 514, concerning the principle of life in man. Therefore, the Most Eminent Cardinals came to this conclusion:—In the philosophical books published by G. C. Ubaghs up to now, and especially in *Logica* and *Theodicea*, there are doctrines or opinions which cannot be transmitted without danger. This judgment was approved by the Most Holy Pope Pius IX, and confirmed by his supreme authority. From these things, Your Eminence will easily understand that such dangers must be repelled from the minds of young people with opportune safeguards; hence, it will be absolutely necessary that not only those books and similar ones be kept away from the Catholic University of Louvain and from all schools, but also that works be used, with the common consent and authority of the Bishops, by which the young age may be imbued with irreproachable and sound doctrine in that renowned University. It is not doubted that Professor G. C. Ubaghs, with the virtue he possesses, and other professors in Louvain who adhere to these opinions, will comply with this judgment; nor is it necessary to commend to Your Eminence in a greater manner that, after consultation with the Bishops...

(1) These are the propositions that we mentioned on pages 204 and 205.

[*Latin ed. p. 217*]

PROPOSITIONS REJECTED, ETC. 217 "To your suffragan bishops, you shall devote all your efforts, so that those things which are commanded in the name of the Supreme Pontiff may be brought to execution without delay, and so that the Apostolic See may be informed of the execution of all things." Rome, March 2, 1866. This document, after being transmitted to the bishops to whom it pertained, was not interpreted by some as it ought to have been; indeed, they claimed that the doctrines which were explained by Cardinal De Andrea on February 1, 1860, by four professors, were neither rejected by them, nor by those who preceded them; therefore, it was again written to by the Sacred Congregation, as follows: "Most Eminent and Reverend Lord, I have received two letters from Your Eminence, recently sent to me, to which were attached letters to the professors of the University of Louvain, sent by the bishops of that ecclesiastical province, collected into one, and the responses given both by the Magnificent Rector of that University, and by the Reverend Mr. G. C. Ubaghs. All of these letters were brought to the knowledge of the Eminent Fathers who are with me, the General Inquisitors; to whom it seemed fitting, indeed nec-

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essary, that not only these documents, but also others, which, as you write to me, are in your hands, be presented to the assembly of bishops; and especially because some of the professors of the aforementioned University, and particularly those who adhere to the noted opinions, do not interpret and explain the latest resolution of the Holy See as they ought, and as it perfectly corresponds to the mind of both the Sacred Congregation and the Holy Office. Therefore, I beg you, let your suffragan bishops convene with you as soon as possible, let them discuss this matter, and let them ensure that the professors, who are already adhering to the noted opinions, fully, perfectly, and absolutely submit themselves to the resolution of the Holy See. The Sacred Congregation does not doubt that you will conduct this business with all patience to its conclusion, and that you will report everything that has been decided and entrusted to execution after consultations with your suffragan bishops. In the meantime, I humbly kiss the hands of Your Eminence." To Your Eminence, Your humble, devoted servant, Rome, June 3, 1866. C. Cardinal PATRIZI To the Most Reverend Cardinal Archbishop of MECHLIN.

[*Latin ed. p. 218*]

218 PROPOSITIONS REJECTED, ETC. After receiving these communications, the Professors still hesitated, believing that their opinions, which they had presented on February 1, 1860, had not been doctrinally condemned, but rather, disciplinary measures had been taken. The Most Reverend Prince, the Illustrious Prelates, and the Reverend Fathers wrote: "In the assembly of Bishops of Belgii held yesterday, it was decided to communicate to us the letter which you sent to the Most Reverend Cardinal Archbishop of Mechliniensem on June 3rd, addressed to Cardinal Patrizi. There, several of the venerable members of your assembly made it clear to us that, considering the decrees of the Holy See concerning the writings of D. Ubaghs, they believed that our opinion regarding the development of human reason had been doctrinally condemned by the Holy See. When we were questioned by the venerable members of your assembly on this matter, we replied: We are most willing to abstain from teaching that opinion, either orally or in writing; however, we have not yet been fully convinced that said opinion has been doctrinally condemned by the Holy See, since this condemnation does not seem to us to be possible, either from the decrees of the Holy See, or from the reasons that some of the venerable members of your assembly have presented on this matter." We gratefully recall that, after hearing us speak, all the Most Reverend Prince, the Illustrious Prelates, and the Reverend Fathers testified with one voice that they knew us to be of the same mind, and that we were fully, perfectly, and absolutely willing to submit to every decree of the Holy See, and to do so immediately as soon as it became known to us. "Therefore, the venerable members of your assembly decided to request

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that we clearly explain our opinion, and that it should then be submitted to your judgment for consideration by the Holy See. We, with a willing heart, accede to this request and declare the following." First. We are fully convinced that, after the Fall of Adam, man is able, by himself, that is, by the sole powers of his own nature inherent within him, to know and demonstrate the existence of God and other certain metaphysical truths. We believe that these external truths can be demonstrated with the greatest certainty through the principles of reason and the contemplation of created things. By this declaration, we do not seem to reject anything that is contained in either...

[*Latin ed. p. 219*]

PROPOSITIONS REJECTED, ETC. 219 which, by decree of June 23, 1843 and August 8, 1844, of the Sacred Congregation of the Index, were noted in the writings of D. Ubaghs, along with the false principle to which they are attached. "Secondly. We are fully persuaded that a man, whose reason is sufficiently developed, can, through the means we have mentioned, attain knowledge of those truths which we have stated, even if none of those truths have been transmitted to him through any institution. It follows from this declaration that we also believe that, in order to know those things which can be known about God by natural reason, revelation is not absolutely and physically necessary, but only morally so." "Thirdly. We declare that we agree with the following words of R. P. Perron, which were commended to the professors of philosophy by the Provincial Council of Rheims in the city of Amiens in the year 1853 and approved by the Apostolic See. When we speak of the faculty with which human reason possesses the ability to know God and to demonstrate His existence, we mean that it is sufficiently exercised and developed, which happens through the society and the supports found in society, which a person certainly cannot acquire outside the communion of others." "Fourthly. Concerning our first parent, Adam, since he was not created in a state of infancy, but was perfect as a man, both in body and in soul, we declare that he could, without any external institution and without any revelation, attain to the use of his reason, by which he would have acquired a distinct notion of the existence of God and of other truths of natural order." "It will be pleasing to us to be taught by the Apostolic See whether those things which we have here presented are theologically condemned by it, and therefore must be entirely rejected by every Catholic." 1. Th. Beelen, SS. Pi IX Cubicul. ad hon S. Script. et ling. Or. prof. I. B. Lefebve, theol. dogm. prof. Liège, August 1, 1866. The Bishops, Professors, have again presented the following doubts to the Most Holy Father: "Most Holy Father. With the utmost understanding and submission of mind and heart, we have received the letters and mandates

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of Your Beatitude concerning the difficulties of doctrine.

[*Latin ed. p. 220*]

220 PROPOSITIONS REJECTED, ETC. To the Catholic University of Louvain, and we offer the highest gratitude to Your Holiness for having deigned to issue that definitive judgment. "When the aforementioned document, signed by the Most Reverend Cardinal Patrizi on March 2nd of the current year, reached us, we immediately convened in Mechlin, so that, after consultations with the superiors of the Apostolic See, we might urge the execution thereof. On March 21st of the same month, we delivered letters to the Most Illustrious Rector of this University, and others to the ecclesiastical gentlemen who are professors therein, adding to these the rescript of the Apostolic See, with which we communicated to them, commending prompt obedience. Indeed, we requested a document of filial obedience, to be laid at the feet of Your Holiness, from those professors who adhered to the noted doctrines. With a willing spirit, they and other ecclesiastical professors presented this document to us. Cl. G. Ubaghs, at our urging, immediately relinquished his chair, and now, having retired, he devotes himself to correcting his works." "Subsequently, we transmitted to the professors of each seminary in their respective dioceses the decisions of the Holy See, urging them to submit with all reverence. We are certainly pleased to note that all the professors of the seminaries have satisfied our desires with the most profound reverence and with true assent of mind and heart." "But while we rejoice in the Lord, a sad report reached us concerning a new interpretation of the apostolic decision. 'It is disciplinary, they said, not doctrinal; we cannot teach those things which are rejected, but it is permissible to hold them in the heart,' others said: 'The singular Cl. Mr. Ubaghs' opinions concerning the natural power of the human mind are disapproved, but those things which the four professors of Louvain expounded in their letter of February 1, 1860, are not touched thereby.' "While this rumor was spreading, Cl. Doctor Lefebvre, one of the four professors, wrote to the Bishop of Namur, stating that this was his interpretation. However, the Rector of the University, Cl. Laforet, in repeated letters to the same Bishop, stated that this explanation, to which Cl. Beelen adhered, was not his, but that he considered it probable and permissible. The Bishop of Namur and two other Bishops sent the letter of D. Lefebvre to the Holy See."

[*Latin ed. p. 221*]

PROPOSITIONS REJECTED, ETC. 22l "Such was the state of affairs when we met in Liège, on July 30th of the current year, to discuss these and other matters. " In the first meeting on that day, July 30th, the Most Reverend Cardinal Archbishop read aloud letters from the Most Eminent Cardinal Patrizi, dated June 3rd, in which we saw declared

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that it was necessary for us to convene and to ensure that the professors, already adhering to certain opinions, would fully, perfectly, and absolutely submit to the resolution of the Holy See. " We then summoned the two aforementioned professors to our meeting, so that they might express their views. They were present the following day, and they expounded their sentiments at length, stating in particular that they fully embraced all the decisions of the Holy See, but that, from letters dated 1864, and June 3rd of the same year, it was not clear to them that the doctrinal exposition made by the four professors in 1860 had been attained. We, however, judge that the entire question today revolves around this very point. Furthermore, at our request, they presented us with a document the following day. " Therefore, we have prostrated ourselves before Your Holiness and implore you to deign to declare, in these circumstances, whether the aforementioned Exposition of the year 1860 itself has been rejected, or not, in the aforementioned declarations. " We earnestly implore the Apostolic Blessing upon us and upon the faithful entrusted to our care." To Your Holiness, the most humble, obedient, and devoted servants. f Engelbertus Card. Arch. Mechl. f Gaspar los. Ep. Tornacen. f Theodorus Episc. Leodien, f I. I. Episcop. Brugen. f Henr. Episcop. Gandaven. f Vict. Aug. Ep. Namurcen. Liège, August 1, 1866. After these things, the Most Reverend Cardinal Patrizi replied in the name of the Most Holy Lord: " In the letters sent by Your Eminence and your suffragan Bishops to our Most Holy Lord, Pope Pius IX, on August 1st of this month, a judgment is requested from the Apostolic See concerning two..."

[*Latin ed. p. 222*]

222 PROPOSITIONS REJECTED, ETC. Concerning certain questions raised by the Reverend Fathers J. Th. Beelen and J. B. Lefebvre, professors at the Catholic University of Louvain, regarding the responses of the Sacred Congregations of the Holy Office and the Index, both in the year 1864 and this year, 1866, which have been sanctioned by the authority of the Supreme Pontiff. But these are not such doubts that require a new interpretation and declaration of a matter already defined; for it is abundantly sufficient to resolve them completely through the very responses of the Sacred Congregations. Indeed, it has been heard with astonishment that such doubts were proposed. Moreover, all matters pertaining to the question raised at Louvain, and therefore also the exposition of doctrine by the four professors of Louvain, signed on February 1st of the year 1860, were examined and considered before our eyes, while the aforementioned question was being defined through the aforementioned responses. Furthermore, Catholics, and even more so ecclesiastics, have the duty to submit themselves completely, perfectly, and absolutely to the decrees of the Holy See, removing from the midst all contentions that would hinder sincere assent. "These are the things that, in

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the name of the Most Holy Father, I must communicate to Your Eminence, so that you may communicate them to the Suffragan Bishops, and together with them, you may admonish the aforementioned Professors, and others who share their sentiments, in the Lord, and urge them more and more to acquiesce in the judgments of the Apostolic See, as befits them." In the meantime, I humbly kiss the hand of Your Eminence, Your Eminence's humble, devoted servant. C. Cardinal PATRIZI, Rome, August 30, 1866. To the Most Reverend Archbishop of Mechlin. Therefore, the Bishops of Mechlin, assembled, presented letters to the Most Magnificent Rector and the ecclesiastical professors of the esteemed Catholic University of Louvain, in which they communicated the aforementioned response to them, and urged them to present a document of filial obedience; these letters are as follows: Most Magnificent Lord Rector, Most esteemed ecclesiastical professors of the venerable Catholic University of Louvain, "In the month of March of the current year, we sent you letters from the Eminence of Cardinal Patrizi concerning the doctrinal difficulties raised in Louvain, and we requested a document of filial obedience to the decrees of the Holy See, Apo-

[*Latin ed. p. 223*]

PROPOSITIONS REPROBATED, ETC. 22S. We have received the sincere declarations which you sent to us concerning this matter, but soon a rumor spread that the meaning and force of the Roman responses were not understood by some professors, and in truth, the most illustrious Lords Professors Beelen and Lefebvre declared to us that this rumor was founded on truth, and they made it clear to us their desire to obtain a further explanation from the Holy See, stating that the exposition of their doctrine, made on February 18, 1860, had not been condemned. However, holding dear the purity of doctrine and the tranquility of souls, we dared once again to approach the Most Holy Lord, humbly requesting by letter of August 1st that He would deign to dispel the doubts that had arisen with new light. The Most Merciful Father, graciously accepting our wishes, ordered letters to be sent to us, the text of which we insert here, as commanded by the Apostolic See. "Furthermore, from other letters of the same Eminent Cardinal, it is clear that the aforementioned exposition of doctrine of February 1, 1860, is included in the resolution of both Congregations of the Holy Office and the Index, published on March 2 of this year." These decisions are, therefore, so clear and evident that the cause should be considered definitively decided. We know that the firm will of the Most Holy Lord is that, with errors removed, all may think alike. Therefore, that all dissensions may be extinguished forever, and that nothing may be hoped for or expected in this matter, which has been long debated and is now defined, we send a formula of letters to be signed by all those who have either taught condemned doctrines, or who have adhered to them in some

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way. "We shall be most grateful to receive these letters as soon as possible, so that they may be placed in the hands of the Most Holy Lord, and may bring some relief to His heart, which is so sorely troubled at this time. "Whatever is good, whatever is salutary to you, we pray, may come from God, the Author of all good." Mechlin, December 17, 1866. The Rector and Professors, to whom the prescription of the Bishops was addressed, signed and delivered the following document with filial obedience. Most Eminent Prince, Illustrious and Reverend Prelates, "Obeying your commands, we submit this document with filial obedience..."

[*Latin ed. p. 224*]

224. PROPOSITIONS REJECTED, etc. I hasten to present these to you, humbly requesting that they be laid before the Most Holy Lord Pope Pius IX through your hands. "By the full, perfect, and absolute decisions of the Holy Apostolic See of March 2nd and August 30th of this year, I completely submit myself and sincerely consent. Therefore, from my heart, I reject and repudiate any doctrine contrary to these, specifically the exposition of doctrine signed by four professors and transmitted on February 1st, 1860, to the Most Eminent Cardinal Prefect of the Holy Congregation of the Index, and all others pertaining to the question raised at Louvain, which the Apostolic See has disapproved." "With profound veneration and all due submission, "Most Eminent Prince, Illustrious and Reverend Prelates." "Your most humble and obedient servant. Louvain... December 10, 1866. Theses published by the Holy Congregation of the Index and approved by the Most Holy Pope Pius IX on June 15, 1855. 1. "Although faith is above reason, no true contradiction, no discord, can ever be found between them, since both arise from the same immutable source of truth, God, the supremely good, and thus offer mutual support to each other. (Encyclical of Pope Pius IX, November 9, 1846.) 2. "Reason can prove with certainty the existence of God, the spirituality of the soul, and the freedom of man. Faith follows revelation, and therefore, it is not fitting to use it to prove the existence of God against atheists, or to prove the rational and spiritual nature of the soul and its freedom against the followers of naturalism and fatalism. (Proposition subscribed by the Reverend Bautain, September 8, 1840.) 3. "The use of reason precedes faith and leads man to it through the help of revelation and grace. (Proposition subscribed by the Reverend Bautain, September 8, 1840.) 4. "The method used by Saint Thomas, Saint Bonaventure, and others after them, the scholastic theologians, does not lead to rationalism, nor was it the cause why, in the schools of today, philosophy has tended towards naturalism and pantheism. Therefore, it is not permissible to blame those doctors and teachers for having used this method, especially since it has been approved, or at least tolerated, by the Church." (Propositions, contrary to propositions taken from the writings

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of the Reverend Bonetty.)

[*Latin ed. p. 225*]

225 FROM S, THE CONGREGATION FOR MATRIMONIAL AFFAIRS. On May 25, 1867. Session 24, chapter 1, concerning the reform of marriage. From the year 1860, Livius and Caia were consumed by mutual love; they seemed to have sufficiently pledged their faith to each other for a future marriage, and afterwards, no shameful dealings were lacking, so that Caia conceived a child, although this remained initially concealed. Finally, while Caia was staying in her mother-in-law's house, she was caught in the act with Livius. For the mother-in-law, who had strongly suspected such dealings, one day told Caia that she would be leaving the house and would return the following day. In fact, the same woman was present in the house, but she was lying in bed, suffering from a foot ailment. Taking advantage of this absence, Caia and Livius agreed to spend the night together, as indeed they did. However, it happened that the mother-in-law returned on the night of the same day on which she had left, together with her brother, Anthony. Anthony was the first to find the couple lying in bed, and, raising a cry, he was immediately followed by his sister, and then by her husband, although he was hampered by his foot and supported himself with his own cane. Livius, in order to quell the cries and reproaches, indicated silence, and said that he was prepared to bear the punishment if he had done wrong. Amidst the noise, threats, and accusations, the mother-in-law's husband, enraged, struck some furniture with his cane, and unintentionally injured his wife's hand. Meanwhile, the plan was proposed to summon the parish priest so that he might assist in the marriage, and in this way, Livius would unwillingly bear the punishment. Although this plan did not greatly please Livius, he nevertheless later agreed, saying that he could not take Caia to his house that very night, lest he disturb the family; however, he warned, *Acta*, Vol. III, page XXIX, 15.

[*Latin ed. p. 226*]

226. Concerning marriages. Meanwhile, a few days later, Caius was to be taken to his family's home. Therefore, although it was the eleventh hour of the night, the mother went out to call the parish priest, and she asked him, saying: "We have a sick person at home who needs the last unction." The parish priest hurried over, accompanied by the mother and another man. Upon entering the house, the mother pointed out Livius and Caius, saying, "This one is sick, and this one is sick." To this, the parish priest replied, "What is this? What is this?" Then she added, "You must bless them now, as they are about to enter into marriage." "I reject this!" said the parish priest. But after hearing the account of the matter, and with the mother insisting that the bride and groom should kneel, and in some way suggesting what the bride and groom should do, the groom took the bride's hand and pro-

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nounced the words of the contract, and the woman reciprocated. Although the priest did not praise the way in which the matter was handled, he declared that it had been done. After this, with a recreation of spirits that was not without its cups, Caius remained at home, and after two or three days, she was again known as Livius's wife; but afterwards, he neither took Caius into his family, nor did he want to have her as his wife. For he was displeased with the manner in which the matter had been handled up to that point; and, moreover, there was doubt as to whether the words of the contract had been pronounced for a present or a future marriage. Livius and the other man who accompanied the parish priest gave their testimony. The former stated that he had not knelt (for the bride and groom had not knelt, but had sat down nearby), but that he had said, "Therefore, she will be my wife," and that Caius had replied, "He will be my husband." The other man testified: "I did not see whether the bride and groom gave each other their hands," but he said that he heard Antonius say, "Therefore, this one will be my wife," and Caius reply, "He will be my husband." He said that he understood the words spoken by the bride and groom, although he had not seen any sign that would have revealed this to him; he was doubtful about the validity of the marriage only because the priest had not pronounced any words, as happens in a properly celebrated marriage." However, these testimonies were weighed against the confession of Caius and the testimony of three other people who were present: these three all testified unanimously that Livius had said, "This one is my wife."

[*Latin ed. p. 227*]

MARRIAGES. 227 The wife: and Caiam: this is my husband. Furthermore, all believed the marriage to be valid, with the exception of Livius, who later confessed to his friends that he had believed he was deceiving others, and yet he himself remained trapped in the snare. The parish priest testified that at that moment he considered the matter to be undoubtedly completed, and that he remained of the same opinion in the following days, as he himself had recounted to others; "however," he said, "I am now hesitant in asserting whether Livius said: 'this is my wife,' or rather: 'this will be my wife'; at that moment I believed that Livius said: 'this is my wife,' and Caiam undoubtedly added: 'this is my husband.'" Such doubt arose in the mind of the parish priest after he spoke with Livius and another man. However, this man was publicly considered to be a liar. All of this is based on the records properly completed in the episcopal court, according to the Benedictine Constitution. When the episcopal court refrained from issuing a judgment on this matter due to political circumstances, Caiam, who was arguing for the validity of the marriage, obtained from the Most Holy Lord that the case be definitively decided in the first instance and economically in the Sacred Congregation of the Council. After this simple account of the facts, the discussion, although concise, might bore the reader, so we will

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refrain from presenting it. Question. "Whether the validity of the marriage is established in this case." RESOLUTION. The Sacred Congregation of the Council, having knowledge of the case on May 25, 1867, decided to respond affirmatively. FROM WHICH WE GATHER: I. That the validity of this marriage could have been challenged on two grounds: a) due to alleged coercion, and b) due to an explicit lack of consent. II. That neither of these grounds was verified: for although Livius willingly underwent coercion, even if it was done in an unjust manner, he...

[*Latin ed. p. 228*]

228. OF MARRIAGES. It was established that he had accommodated himself: that is, he had emitted a sufficient consent through words, which constituted the present marriage contract (1). III. Therefore, in the present case, the following principle applies: many things are prohibited, which, if done, acquire the firmness of validity. (i) Coercion can be just, yet inflicted in an unjust manner; and because of the unjust manner in which it is inflicted, the marriage could indeed be rendered null if it were grave, as the text in chapter V, concerning Spouses, demonstrates, which is most relevant to our matter: "A young man, having come to us, related that he had received a certain woman into his house, with whom he had had children, and that he had publicly professed his faith that he would take her as his wife. However, while he was staying at the house of a neighbor, his daughter lay with him that night: the father of the girl, finding them together in the same bed, compelled him, through words, to present a marriage contract with her. Therefore, we order that if you find that, after the faith had been professed, he remained with her, you should ensure that he remains with her: otherwise, if he has not, unless he was compelled by fear, which could lead him to become a steadfast man, to take her as his wife, you should ensure that he takes her as his wife," and Pirringh follows this in the aforementioned title, section 4, paragraph 2. 102. However, in the present case, the coercion, although justly done, was rendered unjust by the manner in which it was inflicted; yet it was not grave and could easily have been overcome by Livius. But furthermore, Livius readily accommodated himself to this reason for entering into marriage, which, having been discovered in the midst of a crime, he had promised to undertake. But what was said about words not expressing present consent is sufficiently excluded. If, in fact, Livius had said in those circumstances: "Therefore, this will be my wife," this should be understood not as Livius having contemplated entering into a future marriage, but as a present one, so that these words should be understood as: "Therefore, as you wish, this will be my wife in my presence": and these words, when spoken in the Italian idiom in which they were uttered, easily convey this meaning; and all the circumstances, whether those that preceded, accompanied, or followed, demonstrated that this was the meaning, since this reason for doubting,

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sought from the manner of speaking, did not occur to Livius until much later; that is, at the time when he was seeking to be released from his wife, and after he had recognized Caius as his own wife. Perhaps someone might think that the marriage could have been validated by tacit consent, if it had been null from the beginning due to a lack of consent: but concerning this matter, the things we have written in Appendix I, Volume II, should be remembered.

[*Latin ed. p. 229*]

229 JURISDICTION OVER CHURCHES FOUNDED WITH APOSTOLIC ENDOWMENTS. February 16, 1867. Session 25, chapter 9, concerning Church Reform. The Reverend Ambrose, a noble and wealthy Prelate of the cathedral church of N., having, in the exercise of his office as Pro-Vicar General, observed that peasants living in a certain area were repeatedly deprived of spiritual assistance, both because of the distance from the parish and the difficulty of the roads, decided, at his own expense, to establish a new parish in that location. In a chapter meeting held in the year 1850, presided over by the Bishop, he declared his intention to establish a parish, which would be a daughter church of the cathedral, and which would be governed by the Chapter through a perpetual Vicar, who, after being approved by the Ordinary, would be canonically instituted by letters issued from the episcopal chancery, with due regard for the Apostolic endowment. However, this declaration of intent was somewhat modified shortly thereafter: after having set aside the plan of adding the parish as a daughter church to the cathedral, and having omitted any mention of the Apostolic endowment, he humbly petitioned the Bishop to proceed with the establishment of the parish under the following conditions: "That the appointment of the parish priest should always belong to him, the petitioner, as long as he lived, and after his death, the right of appointing should revert to the Chapter, with the faculty of exercising this right perpetually, by electing, through secret ballots, a parish priest who is 40 years of age and of proven life." These requests were graciously accepted by the Ordinary, who ordered the preparation of a formal instrument of endowment, so that a decree of establishment could then be issued. After the instrument of endowment was completed, in which the founder declared that he held full right and ownership of the goods assigned for the endowment of the parish to be established, a decree of establishment was issued by the Bishop, with the following words: "We establish a new parish, and grant and reserve its jurisdiction, with the reservations and conditions previously stated, and with others specified in the aforementioned instrument, in favor of... the Reverend Ambrose, as long as he lives, and after his death, in favor of the Reverend Chapter...

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perpetually."

[*Latin ed. p. 230*]

230 "JURISDICTIONAL RIGHT OVER THE ECCLESIASTICAL BENEFICE, with the power to nominate a Curate, to be approved and instituted by Us and Our successors, according to the will of the Founder himself." The parochial building was erected for the first time, and the Founder initially named a Curate, Angelus, who, having been found suitable by the Bishop and duly approved, received canonical institution in the year 1853. Shortly thereafter, the Founder, having nominated the Curate, passed away; and twelve years later, in May of 1865, the aforementioned Curate also passed away. Therefore, according to the law of the foundation, the Chapter prepared to nominate a new Curate; but a question arose as to whether, in this instance, the collation of the benefice pertained to the Apostolic See; for the first Curate had died in May, which, according to Rule IX of the Apostolic Chancery, places benefices under Apostolic reservation. The Bishop considered that the collation in this instance belonged to the Holy See, while the Chapter held a different opinion, and the matter was ultimately referred to the Sacred Congregation of Councils. A brief summary of the arguments presented in favor of the Apostolic See: According to Rule IX of the Apostolic Chancery, all ecclesiastical benefices, with and without cure, in each of the months of January, February, April, May, etc., which are to become vacant outside the Roman Curia, are reserved for collation, provision, presentation, election, etc. Under this reservation are included ecclesiastical benefices of jurisdictional right, according to Chapter [reference to a legal text]. Furthermore, in the present case, a jurisdictional benefice with cure was to be conferred upon the Chapter for presentation, which would become vacant in May; therefore, it appeared to be subject to the reservation of Rule IX. Two objections could be raised: either the benefice is not of ecclesiastical jurisdictional right, or the Founder intended to exempt it from these reservations; but these objections were refuted. The Founder, having endowed the Praepositus with a position in the Cathedral, is considered to have constituted the fruits of this endowment, so that, by this very quality, the benefice appears to be imbued with an ecclesiastical nature, as stated by the Holy Rota in *Pitoneum De Controversiis*, allegation 47, number 33: but, more importantly, at the very foundation, he stipulated that the jurisdictional right should pass immediately to the ecclesiastical community after his death.

[*Latin ed. p. 231*]

THE JURISDICTION OVER RESERVATIONS. 231. In this case, the jurisdiction, even if it is lay, becomes ecclesiastical, according to chapter one concerning patronage, in section 6. However, when a lay person, to whom a pa-

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tronage belongs, deems it fitting to grant it to the Church or a religious institution, then the Church, as an ecclesiastical patron, presents the candidate; for it is written: "And indeed, with regard to the presentation, the patron must be considered ecclesiastical, not as a lay patron." Another difficulty was addressed by stating that founders can indeed exclude reservations, either expressly or tacitly, at the very beginning of the foundation, but such an exclusion must be clearly demonstrated, according to what is stated by Pitonius in *Discip. Eccl.* 25, nos. 1 and 2. Furthermore, neither the terms of the endowment instrument nor the decree of foundation expressly or tacitly exclude the reservation of the Rule. A tacit exclusion might perhaps have been inferred from the words: "with the faculty of exercising this right perpetually"; however, the Holy Rota has repeatedly held that these words do not exclude reservations, as in the case of *Aprutina* and the benefice of June 19, 1705, before Scotto, which is cited by Pitonius in *De Contr. Pair*, alleg. 28, nos. 33 and following. For this expression, "perpetually," is understood to mean that the patron must be such that he is not merely temporary, but perpetual; and this has been confirmed by other decisions of the Holy Rota.

WHAT WAS FAVORED BY THE CHAPTER:—At the beginning, it was argued that the patronage, in its institution, should be considered lay, and that it remained so; for it was certain that the priest Ambrose founded a parish from his patrimonial goods and other things that belonged to him by full right during his lifetime. However, if the founder reserves the patronage in favor of ecclesiastical persons or an ecclesiastical body, so that they may exercise that right as often as they wish, or always, or perpetually, by presenting, nominating, etc., then, according to canonists, such reservations are excluded. It is indeed necessary to say otherwise if a lay patronage is granted to lay persons, and in the event of their death or extinction, it devolves to ecclesiastical persons without any condition attached, or through an unforeseen event; for in this case, Doctors teach that Apostolic reservations are implied, as the Holy Rota states in the aforementioned *Aprutina*, Lotter, *de Re Benef.* I, 2, question 8, no. 99, and question 27, no. 66, etc. For it is not in accordance with the nature and substance of an ecclesiastical benefice, either expressly or implicitly, at the very beginning of the foundation...

[*Latin ed. p. 232*]

232 The jurisdiction pertaining to reserved benefices implicitly excludes reservations, so that when the jurisdiction passes to a lay body along with the benefice, the Sacred Roman Rota, in the case of *Iurispatronatus*, on May 31, 1613, before the Sacred Congregation, stated this. In the present matter, it was said that the Founder, Ambrosi, had foreseen the transfer of jurisdiction to the Chapter, and indeed had established it; he had also intended that it be exercised perpetually; this exercise was to be approved

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and instituted by the Bishop; therefore, not only the words concerning perpetuity must be understood to pertain to the jurisdiction, but also to the manner of its exercise and presentation, as the Rota stated in the case of *Terraconen*. Benefits, §. Decision before Lancetta, Fargna, vol. 3, chap. 23, case 1, no. 5. Even more so, because the Founder, in the initial explanation of his intentions, while mentioning the rights of the Apostolic Datary, in fact, when it came to the erection of the benefice, changed his purpose, and made not a single mention of these rights, either in the instrument of endowment or in the decree of erection, which was issued according to the requests of Ambrosi. And if these things did not seem sufficient to demonstrate the Founder's intention to exclude reservations, other conjectures were added: namely, that the Founder had been concerned about obtaining special patronage from *industria* in the appointment of the parish priest, as is evident from the qualities required in the parish priest and to be verified by the patrons; that the Founder himself had established the benefice and designated the month of July as the *Mense Apostolico*, which constituted a certain observance; finally, from the tenor of the disposition, it appeared that the Founder had transferred the right of appointing to the Chapter in the same manner in which he himself had exercised it, so that, with no mention of concurrence, and indeed with concurrence excluded, the Chapter would appoint the parish priest, whom the Bishop would examine and approve, as is customary in the case of lay patronage. Furthermore, there was the testimony of the Bishop under whom Ambrosi had founded the parish, who testified that he had understood Ambrosi to have established the jurisdiction of the patronage in favor of the Chapter, so that the appointment of the parish priest would belong to it, regardless of the month in which the vacancy occurred. With these and other considerations, and with the authority of the Doctors learnedly confirmed, the doubt is to be resolved: "Whether it is established by law that the Cathedral Chapter has the right to appoint the parish priest of the Church of N. N. in any vacancies, or rather..."

[*Latin ed. p. 233*]

JURISDICTIONAL OFFICE CONCERNING RESERVATIONS. AP. 233: "The provision of that church is subject to Apostolic reservations" – this is the case. RESOLUTION. – The Holy Congregation, after discussing the matter, decided on February 6, 1867, to respond affirmatively to the first part and negatively to the second. FROM WHICH WE GATHER THE FOLLOWING: I. Lay benefices, or rather, chaplaincies, must not be confused with lay jurisdictional benefices (1). For the former are not considered ecclesiastical benefices; the latter, however, are truly ecclesiastical benefices. II. Ecclesiastical benefices of lay jurisdiction, or of private jurisdiction, by their very nature, are not subject to the Apostolic Datary (2). III. However, when this jurisdiction passes to a public ecclesiastical person, or to an eccle-

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siastical college, it changes its nature, so that it is no longer a lay jurisdiction, but is subject to general ecclesiastical laws. IV. Nevertheless, during this transition, it may retain some aspects of its lay character, if it is established that the founder, by the established transition, understood that the law by which he was governed in the exercise of jurisdiction would remain in force. V. Especially if the matter concerns the exclusion of reservations, which exclusion is not said to be contrary to the law, but rather, is in accordance with the law and the ordinary status of benefices (2). (1) See what we have written in Vol. II, p. 327 and following. (2) The case discussed in the Holy Rota on June 13, 1702, concerning the benefice of Parmen, Alleg. 48, 170B, 1701, before Scotto, Ansaldo 16, and before Malines, may be read. This case, which is very similar to ours, was discussed three times in the Holy Rota, and in each case, it was decided in favor of the exclusion of reservations. These decisions are reported by Pitonius in his work on Controversies.

[*Latin ed. p. 234*]

Regarding the ELECTION concerning a CANONICAL THEOLOGIAN, on March 30, 1867. Session 5, chapter 1, concerning the Compendium of Regulations. According to the ancient custom confirmed by Benedict XIV, through the Constitution *Regis Pacifici*, the Canonical Theologian in the cathedral church of N. in Italia is appointed in this manner: "The Bishop, indeed (these are the words of the Constitution), shall propose and name two [candidates]. The Chapter, from these two named, must choose one for this canonical office and benefice, as has been observed up to now." In the year 1864, the theological benefice became vacant, and, upon invitation by the Bishop to obtain it, only two priests sought it: Aloysius and Caesar. The Bishop then proposed both of them to the Chapter. When the Chapter convened for the election, neither was chosen by votes. For the votes, from the nine Canons who participated in the scrutiny, were distributed as follows: Aloysius and Caesar each received five favorable votes and five unfavorable votes; therefore, the Canons proceeded to a new scrutiny, in which Aloysius received three favorable votes and six unfavorable votes; Caesar, however, received four favorable votes and five unfavorable votes. The Chapter, considering that it had fulfilled its duty with this election, and because Caesar had obtained a greater number of votes, informed the Bishop of the election of the new theologian. Aloysius was grieved that he had been surpassed by Caesar, and, having obtained letters addressed to the Sacred Congregation of the Council, he challenged the election, first, for the lack of an absolute majority of votes, and second, for injustice. Upon being asked about the custom, the Bishop requested that, after having read the written statements of the Chapter, he be informed about the age, morals, knowledge, and suitability of the elected candidate for the theological office, and that a detailed account of the merits of each candidate be provided, so that he might express his opinion. The Chapter

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defended the completed election. The Bishop added the documents detailing the merits of each candidate, and, among other things, noted that the theological office in that city was not one of great labor, because...

[*Latin ed. p. 235*]

ELECTION CONCERNING THE CANONICAL THEOLOGIAN. 235. By custom, only twelve readings from Holy Scripture were traditionally read each year. After being warned that they should present their rights before the Holy Congregation, the question was brought before the Sacred Congregation for resolution. A concise discussion. WHAT WAS ALLEGED TO INVALIDATE THE ELECTION. Certain chapters of canon law were cited, which state that in elections, that which is decided by the majority and healthier part of those electing should prevail, as in chapter 1 and 3 concerning what is done by the majority, paragraph. And in chapter *Quia propter de Elect.* These principles are in accordance with what Canonists teach: in elections held by a Chapter, a unanimous consent of the majority is required. Therefore, in the present case, since the majority of the Chapter showed a contrary will towards both candidates, the election should be considered null. Even more so, because this majority of votes for the election of candidates appears to be so necessary in elections, that without it, it seems to be somewhat violated the natural right. For the election is of the Chapter; and the will of the Chapter can only be represented by the majority of those electing, as stated in the Glossa on chapter 21 of the Decretals, where it is concluded that the consent of the majority is a substantial condition required in elections. In the present case, however, the election was not only lacking absolute majority, but furthermore, the votes were distributed in such a way that out of nine votes, seven divided the favorable votes between the candidates, and so that each candidate received a greater number of positive votes against them than in their favor. WHAT WAS OBSERVED TO THE CONTRARY. To the contrary, it seemed to be opposed by another principle accepted in canonical jurisprudence, according to which, as stated in the well-known chapter *Quia propter de Elect.*, not everything that must be observed in solemn elections is prescribed in lesser elections concerning matters of little importance. For the Doctors teach that those things prescribed in the aforementioned chapter *Quia propter* must be observed in the elections of Prelates, whose death leaves the Church widowed; but in other elections, such as those of canonical benefices, capitular offices, etc., they are not subject to the same sanction.

[*Latin ed. p. 236*]

236 ON THE ELECTION OF A CANONICAL THEOLOGIAN. The writings of Cardinal De Luca, *de Canon. disc. 28*; Reiffenst., I, 1, title 6, on elections, no. 110; Pitonius, *Discept. eccles.*, 140, nos. 56 and 61, state: "The

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form [of election] expressly mentioned in the aforementioned chapter, by which a place is claimed for oneself, is observed in the elections of Prelates and other Superiors upon the vacancy of the office; but not in the elections of Canons, concerning which no special and positive form is prescribed." Therefore, in such minor elections, it is sufficient that the law of nature be observed, as Reiffenst. concludes in the aforementioned passage, no. 112. It does not seem to contradict the law of nature that, in elections, he who has received more votes should be elected among several, even if these votes do not represent the will of the majority of those electing. Indeed, the Canons were striving to confirm this by alleging a special custom and a capitular statute, although they did not refer to the statute nor prove the custom (1). And in truth, there are authors, among whom is Zipaeus in *Analytica iur. Pont.*, I, 3, in the title on those things done by the major [officers], who state that, in churches or Chapters, the strictness of canon law is not observed in this matter, so that it suffices to have more votes compared to smaller factions. Therefore, Reiffenst., in the aforementioned passage, no. 149, asks whether, in every election, a majority of votes are absolutely required. He replies, no. 151, that, while the strictness of common law requires a majority of votes with respect to the entire Chapter present for the validity of the election, in some churches, this is not observed, but, through long-standing custom, it suffices for the validity of the election to have more votes compared to a smaller faction. And what seems most relevant to the present matter is what S. Rota stated in the case of *Adrien. Canonicatus coram Lancetta*, April 3, 1699, as reported by Pitonius in the aforementioned passage, where the election of a Canon was being carried out, and a capitular statute was present which stated: "Let all present discuss the Canonry, and he who has more votes shall be considered the elected Canon."

(1) *Consuetudo solet esse commune litigantium effugium; nihil enim frequentes invocatur ad praesumpta iura confirmanda, quam consuetudo.* Custom is often a common refuge for those in dispute; for nothing is more frequently invoked to confirm presumed rights than custom. Nevertheless, it must be held that custom is often difficult to prove, as the doctors commonly state: for it involves proving a fact along with its qualities, whether it has frequent occurrence, whether it has a legitimate time, whether it has a reasonable cause, and whether it has ever been interrupted by contrary acts.

[*Latin ed. p. 237*]

ELECTION REGARDING THE CANONICAL THEOLOGIAN. 237. Due to the votes being very closely divided, similar to our case, among other things, the Sacred Rota decreed as follows: "Electors, without the necessity of observing the form prescribed above in the aforementioned chapter, because, and according to the aforementioned chapter of the Church, they

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could rightly, from the aforementioned statute (of the chapter), consider him to be elected, with whom a comparatively greater number of electors had agreed, since all at that time are considered to have collegially assented to that election, as the Gloss is explicit in the chapter 'Si cui etc.'"

THINGS NOTED REGARDING MERITS. – Aloysius was indeed more deserving than Caesar, based on the notes of merit. However, since both had been presented by the Bishop to the Chapter as worthy, Aloysius did not seem to be able to rightfully claim the Prebend for himself, aside from the question of whether he had behaved well or poorly before the Chapter. Rather, the question was raised by duty, whether the law of concursus, to which the collation of a theological Prebend in Italy is subject, according to the Constitution of Benedict XIII, *Pastoralis officii*, applied in the present case, and therefore, the cited Constitution of King Pacificus, promulgated by Benedict XIV, in favor of the Chapter in question, was examined; but from its tenor, it seemed sufficient to show that this Holy Father had intended or recognized this theological Prebend to be exempt from this law. With these and other observations, the doubt was to be resolved: "Whether and how, after the election of a Priest (Caeli saris) for a theological Prebend, the case stands."

RESOLUTION. – The Sacred Congregation of the Council, having considered the matter on March 30, 1867, decided to respond: "Negatively; and that there is room for a new proposal, nomination, and election, after a prior examination."

FROM WHICH IT CAN BE GATHERED: I. When the matter of conditions to be observed in any election to be held is questioned, a clear distinction must be made between a solemn canonical election and other elections of lesser importance. II. In a solemn canonical election concerning ecclesiastical prelates, all those things must be accurately observed which are established by positive law, unless a legitimate custom has prescribed otherwise.

[*Latin ed. p. 238*]

288 ON ELECTIONS REGARDING A CANONICAL THEOLOGIAN. I. In other elections of lesser importance, it suffices to observe what the very nature of the election process seems to demand (1). IV. Indeed, even if an election is concluded in such a way that someone is chosen among many who may have demonstrated greater merit than the others, in certain cases it may seem unjust; however, if there exists some statute or legitimate custom that confirms this, such an election rightly stands. V. In Italy, in cases where, by some legal provision, a competition is held for the conferral of a theological benefice, the Tridentine law applies, which ordains that it must only be conferred upon suitable persons, after a proper examination of their suitability (2). VI. In the present case, besides the defect of a prior examination being instituted by the Ordinary who proposes the position,

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the election itself seemed to have been conducted too hastily.

SPOLIORS. August 24, 1867. Session 24, chapter 16, concerning reforms. In the canonically united cathedral churches of A and B, upon the death of the Bishop, a certain controversy arose between the Chapters of both cathedrals concerning the division of the Bishop's spoliors. The Chapter of the cathedral church of A maintained that it was entitled to one of the three parts of the spoliors; on the contrary, the Chapter of the cathedral church of B maintained that it was entitled not to two of the three parts, but to three of the four parts. The Chapter of A appealed primarily to custom; the Chapter of B appealed to twenty years of ecclesiastical discipline. The matter was proposed to the Sacred Congregation, and the following question was posed. (1) Confer the reason we have presented (2) Confer another case in Volume II, page 373.

[*Latin ed. p. 239*]

OF SPOILS. Disputation 239, concerning the apportionment. WHAT CHAPTER A. WOULD ADVOCATE. — Chapter A. admitted that in canonically united cathedral churches, the spoils of the Bishop were to be divided, maintaining the proper proportion, according to the ratio of revenues which the episcopal table receives from each united church; however, it added that, since such revenues from both tables cannot be computed distinctly and accurately without great difficulty, it is fitting that custom should prevail, which determines the portion of the spoils. Chapter A. maintained that it could be shown that custom determined a third portion of the spoils, based on certain ancient capitular resolutions, which either implicitly or explicitly made mention of this third portion of the spoils. WHAT CHAPTER B. WOULD ADVOCATE. — On the contrary, Chapter B. maintained that, adhering to the established principle, the division must be made taking into account the revenues of each table, since the episcopal table receives three out of four portions of the revenues from cathedral church B; therefore, three out of four portions of the spoils belong to it. Moreover, it argued that the revenues of each table are separate; and it cited the Constitution of the Most Holy Lord, dated June 1, 1847, which states: "Wherefore, if any Bishop should simultaneously preside over two or more united churches, or be granted perpetual administration thereof, which have their own chapter and cathedral church, distinct and separate, We decree that the division of sacred vessels shall be made in equal portions to each cathedral church, so that the revenues of these united or perpetually administered churches are not divided, but perpetually constitute one episcopal table; but if the revenues are divided and separate, We command that the division be made to each cathedral church proportionally according to the fruits." These last words are appropriately applied to the case at hand. Furthermore, Chapter B. denied that a custom existed in favor of cathedral church A; and Chapter

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A. did not sufficiently prove this, and if it had, Chapter B. maintained that such custom would be deemed to have lost its force due to the clauses added to the alleged Constitution; for in it is read: "Notwithstanding, if it should be necessary, Our own and the Apostolic Chancery's rule concerning the right in question."

[*Latin ed. p. 240*]

240. OF SPOILS. Not by dispensing with them, nor by other Apostolic Constitutions and ordinances, nor by other means, but also by special and individual mention and derogation, all of which are worthy of consideration. After these matters, certain things were brought forth which demonstrate the discipline of the Holy Congregation in judging these cases: namely, that whenever a question has been raised before the Holy Congregation concerning the division of spoils between two churches, it has been decided that those spoils should belong to the church to which the revenues were acquired by the Bishop, according to the Constitution of St. Pius V, dated August 30, 1567, of the Roman Pontiff, which was confirmed by another Constitution of Innocent XII, Inscrutabili, dated January 29, 1694. In the year 1708, when Bishop Gorius died, who had been transferred from the church of Cathacensem to the church of Suessanam, and a question arose concerning the spoils, the following proposition was put before the Holy Congregation: "Whether the movable goods, books, money, and other things, besides the sacred vestments, found at the time of the death of Bishop Gorius of Suessanam, which belonged to the former Bishop of Cathacensem, belong to the church of Cathacensem, or rather to the church of Suessanam?" And a decree was issued on September 28, 1709: the goods acquired from the revenues of the church of Cathacensem belong to that same church; and this resolution was confirmed on January 25, 1710, as is found in Lib. Decr. 59, page 331, and 60, page 27. Also, in Tricaricensem, on July 6, 1726. When Bishop Viglini died, who had been transferred from the episcopate of Trivicanaseu to the episcopate of Tricaricensem, and who had administered the former church for ten years and seven months, and had presided over the latter for only a few months, the following propositions were put before the Holy Congregation: I. "Whether the movable goods, books, money, silver, and other goods (except for the sacred vestments) of the late Bishop Simon Viglini, who was formerly Bishop of Trivicanaseu and later of Tricaricensem, found at the time of his death, belong to the Church of Trivicanaseu, or rather to the church of Tricaricensem in this case?" II. "Whether the vestments and vessels, sacred objects, and other furnishings intended for the use of the chapel and the divine cult, found as above, belong to the church of Trivicanaseu, or rather to the aforementioned church of Tricaricensem in this case?" To which, on July 6, 1726, the following response was given: both I and II belong to the

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church of Trivicanaseu.

(i) In order that the two resolutions mentioned above may be more clearly understood, we present the following case: When the Fathers of the provincial council of Beneventum, held in the year 193, supplicated Innocent XII concerning a certain agreement regarding the spoils of Bishops in the Kingdom of Neapo-

[*Latin ed. p. 241*]

241 CONCERNING SPOILS. But another resolution was indicated, which pertains more closely to our case, namely, the one given in the Triestine archives on August 30, 1845. Indeed, when in the year 1843 the Bishop Mattei, who had previously governed the churches of Camerino and Treviso, died in the church of Montisfalci, it happened that the Triestine Chapter requested a portion of the sacred vessels which had been used by the deceased Archbishop, in proportion to the share of the revenues and the time during which that Prelate had administered the church of Treviso, and the Chapter of Camerino asserted that they were entitled to the entire collection of such items for that period. Therefore, the following question was proposed: "Whether and in what manner does the right to the sacred vessels of the deceased Archbishop Mattei pertain to the Triestine cathedral?" The response that was given was affirmative, and that it should pertain proportionally according to the revenues. However, this matter was regulated by the Holy See in a manner and form similar to that by which the cathedral chapters of the same kingdom had already been permitted, and the aforementioned Pontiff issued a Constitution in which Archbishops, Bishops, and lower Prelates of the Kingdom of Naples were exempted from the law of spoils, so that the aforementioned spoils should be applied not as before, with the favor of the Apostolic Chamber, but with the favor of the cathedrals, and, if those were not in need, with the favor of the parochial churches. But in that Constitution, the case of a Bishop who was transferred from one church to another was not foreseen; hence, these doubts were to be resolved by the Sacred Congregation. In these formulas for deliberation, the phrase "except for sacred vestments" was inserted, because these sacred vestments had already been preserved by St. Pius V in the aforementioned Constitution, so that no one could testify about them, nor could the Apostolic Chamber provide them: indeed, it decreed, "That, from now on, all and each ornaments and vestments and vessels, as well as Missals and Graduals and fixed chants and musical books of any kind whatsoever, and other sacred things, even of gold and silver, and whatever other goods, acquired by any Patriarchs, Archbishops, Bishops... for the use of the liturgy and divine worship, even in their private houses and chapels or oratories, which are left at the time of their death, either by will or intestate, under any conditions of testament and other dispositions regarding goods acquired by them from the altar or in any other way...

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are in no way included, nor do they come under the name of spoils (understand those that must be ceded to the Apostolic Chamber), but pertain entirely to the individual churches, monasteries... in which they are located..." This law was confirmed by Innocent XII; and it is considered so privileged that, in a debated question in the Sacred Congregation of the Council: "Whether creditors of a deceased Bishop should be satisfied, if other goods are not sufficient, from the goods, even blessed or pontifical ones, notwithstanding the Constitution of Blessed Pius V," the Sacred Congregation, after a long discussion, gave a positive response on May 29, 1683, although the aforementioned Constitution only removed contrary dispositions regarding these goods made by the last will or by donation, as noted in the aforementioned Trivicana cause.

[*Latin ed. p. 242*]

242. OF SPOILS. His Most Holy Lord has most fully confirmed, by His special authority, as in the cited Constitutions. It was observed that, in the consistorial proposition concerning united churches, of which we are speaking, the fruits of the benefice are usually so assessed that 1500 scudi are paid by church B, and 500 scudi by church A. QUESTION: "Whether and in what proportion the spoils of movable goods are to be divided between the Bishop (N.) and the churches (B.) and (A.) in this case." RESOLUTION: After discussion by the Sacred Congregation of the Council on August 24, 1867, it was judged that the answer should be affirmative, for one of the four parts, in favor of the Chapter (A.). FROM WHICH THE FOLLOWING ARE GATHERED: I. Although Bishops have been granted by the Apostolic See the faculty of testing concerning goods acquired from ecclesiastical revenues, nevertheless, sacred vessels are not to be included among these goods. II. Such sacred vessels are in no way to be surrendered as spoils to the Camera [Papal Treasury], where the rights of the Apostolic Camera are in force, but are to remain the property of that church or those churches to which the Bishop has presided, either jointly or successively, according to the Constitution: *Quum illud* (1). III. The case is to be excepted in which sacred vessels are absolutely necessary for paying a debt contracted by the deceased Bishop. (i) See Appendix II.

[*Latin ed. p. 243*]

243. SECRET CEREMONIES OF BAPTISM FOR CHILDREN BORN OUT OF CIVIL MARRIAGE. Supplicating Prayers. The Parish Priest N. reported to the Sacred Congregation the following: "In my parish, from time immemorial, it has been the custom to baptize illegitimate children without the presence of the people, without the sound of the organ or the church bell, but with the ceremonies prescribed by the Roman Ritual performed in the sacred place." "Recently, it has come to my attention that those who, for the first time, request the solemn administration of

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Baptism for their children, although they have refused to join the Church, are received, as advised by a letter from my Bishop, etc." Therefore, the Parish Priest inquired how he should proceed. The Sacred Congregation, having learned of this, considered it appropriate to send the following letter to the Bishop of that Parish.

To the Most Illustrious and Reverend Lord,

On July 31, 1867.

"This Sacred Congregation is certain that Your Eminence firmly holds that those who, as they say, have entered into a civil marriage contract and live in common cohabitation, do not celebrate the sacramental marriage before the Church, in places where the law of the Council of Trent is in force (Session 24, chapter 1, on the Reform of Matrimony), are to be considered, according to Catholic doctrine, as public concubinaries, and their children are to be considered and are illegitimate."

Therefore, since it is reported that in some parishes in your diocese, from time immemorial, it has been the custom to baptize any illegitimate children, using only the ceremonies prescribed by the Roman Ritual in the sacred place, but without the presence of the people and without the sound of the organ or the church bell, by which the baptism of legitimately born children is celebrated; this Sacred Congregation considers that...

[*Latin ed. p. 244*]

244 CONCERNING THE SOLEMNITIES OF BAPTISM, ETC. To the neighboring dioceses, it is to be observed in the case where the children of those parents who have entered into a scandalous communion of life under the pretext of civil marriage are to be baptized, since there is no marriage whatsoever before God and the Church between them, nor are the children born from them legitimate. "Furthermore, if the aforementioned custom were removed, it would easily happen that the multitude of the ignorant people would suspect no near difference between the civil act and the sacrament of Catholic marriage, if, without the usual distinction in the external appearance, the same solemnity, which until now has only taken place in the baptism of legitimate children, were to be applied to those born from civil cohabitation. "Indeed, since that external solemnity, by which the sound of bells and the organ calls the people to the baptism of children, yields somewhat to the honor of the parents; so that it is fitting that those who have received the great Sacrament in Christ and in the Church should enjoy such honor, it is utterly unworthy that those who publicly live in sin and cause offense and ruin to the other faithful should enjoy the same honor. Therefore, while it is necessary to take care that the children born from such parents are received into the Church as soon as possible through the laver of baptism, it must also be taken care that these aforementioned solemnities are not applied to them. "This humble priest has considered it opportune to bring this to the attention of

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Your Eminence, because it has been reported that the parish priests who adhere to the aforementioned custom are, by some even ecclesiastical men, accused of following rules that are too strict; while, on the contrary, it is clearly evident that they are acting in this matter as befits honest parish priests, and therefore deserve to be fostered and protected by the authority of Your Eminence." In the meantime, I wish to express to Your Eminence the sentiments of my heart, to whom I pray for all good things from the Lord. Given in Rome from the Sacred Congregation on this 31st day of July, 1867. To Your Eminence, as a brother, P. Card. CATERINI, Prefect. PETRUS, Archbishop of Sardes, Pro-Secretary.

[*Latin ed. p. 245*]

CONCERNING THE CELEBRATION OF BAPTISM, ETC. 245 From which the following may be gathered: I. Civil marriage, as they say, in those places where the Decree of Trent is still in force, but which has not been observed, is called in Rome a civil union. II. The children born from it are considered illegitimate, as if they were born from concubinage. III. Therefore, pastors ought to act in their baptisms in this manner, according to how they behave, according to the legitimate customs of the place, towards children born from concubinage. IV. Especially if, through this method of acting, the opinion may arise among the people that a civil union is a true and legitimate marriage (1). (i) The condemned propositions in the Syllabus, which we cited, may be recalled, from which all these things are also inferred as consequences. They have an affinity with what was written by Gregory XV, Pope, to the Archbishop of Freiburg, concerning the ceremonies in mixed marriages, which Apostolic Letters we cited in Volume IV, pages 634 and 635. Also, the response of the Sacred Congregation concerning the blessing of women after a spurious birth, which we cited in Volume I, page 349, may be recalled.

[*Latin ed. p. 246*]

246 FROM S, COMMON DECREES OF BISHOPS AND REGULAR CANONS. OF THE DECIMAS. On August 28, 1857, March 5, 1858, December 16, and February 4, 1859; and June 3, 1864. Summary of the case: In a certain town within the diocese of A., there are three parishes, namely one named after Saint Mary, another after the Holy Cross, and a third after Saint Stephen. The pastors of these parishes were endowed with the right and the obligation to collect the tithe of grain from the inhabitants residing there, and to pay a portion thereof to the diocesan bishop, namely, in such a way that the pastor of Saint Mary's pays three rubles, the pastor of the Holy Cross pays one and a half rubles, and the pastor of Saint Stephen's also pays one and a half rubles to the same bishop, according to custom. Regarding the origin of this custom, it should be known that in the year 1555, the archives of the episcopal curia were destroyed by fire; therefore,

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any trace of it was lost. However, with regard to the subsequent period, in the year 1578, through the care and diligence of the bishop of that time, an inventory of all goods belonging to the episcopal table was compiled, in which it was noted that the pastors of the aforementioned town were to pay six rubles. The same was found in another inventory, which was kept by the bishop who held the episcopal chair at that time, in the year 1765. Furthermore, it was observed that this custom had been peacefully maintained without interruption until then. Indeed, as often happens, difficulties arose for the pastors in enforcing the collection of the tithes: although families not lacking in resources did not refuse to pay the tithes to the pastor, nevertheless, poor and less religious families refused to fulfill this obligation; hence, it happened that the amount of tithes collected could not be fully completed from all sides, and a considerable amount was lacking. Therefore,

[*Latin ed. p. 247*]

DECIMALS. 247 The pastors, even then, did not cease to urge the Bishop to accept a share of the tithes, believing that they could thus ensure that he would not receive a fixed and determined sum of six hundred livres, but rather, maintaining the proper proportion, he would take only as much as had been collected from the parishes; thus, the amount that the Bishop should receive, reaching up to that sum of six hundred livres, would decrease in proportion to the portion of the tithes that could not be collected. However, the Bishop, who did not consider that his table could be maintained with such a meager income, did not believe that he would suffer any detriment, and therefore he insisted on receiving that fixed sum of six hundred livres. Consequently, the pastors brought the matter to the Sacred Congregation for Bishops and Regular Canons for proper determination. Therefore, after hearing the pastors, the Bishop, and the fiscal promoter, this controversy was presented under the formula of a doubt, which will be read below.

ARGUMENTS PRESENTED IN CONSULTATION FOR THE BISHOP. — In this first proposition, the Bishop, in addition to recounting the facts, presented an example from the case of Cassan, which was discussed before the Sacred Congregation of the Council, and whose summary of facts is as follows: The clergy of the parish church of Saint Mary Major of Marathae inferior, who held the right and obligation to collect the tithes of wheat, were required to deliver fifty measures to the Bishop. Since, on one occasion, a dispute arose concerning this right with the clergy themselves and the people, and the tithes could not be collected in any way, the Bishop refused to pay the aforementioned fifty measures. Therefore, the Bishop, before the same Sacred Congregation, presented suitable documents proving that, by ancient custom, this obligation to collect the tithes was incumbent upon the clergy, and that he had the right to receive from them fifty measures

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of wheat, and that this custom had been peacefully observed until that day. Therefore, the doubt proposed was: "Whether the clergy of the parish church of Marathae should continue in the annual payment of 50 measures, or tumuli, of grain for the fourth tithe due to the Bishop in this case?" On September 27, 1738, the Fathers responded: "Affirmatively." After the clergy obtained the benefit of a new hearing, and the doubt was proposed on July 4, 1739, "Whether it is permissible to adhere to or to depart from the previous decision?" The Fathers responded: "Adhere to the previous decision, and furthermore."

[*Latin ed. p. 248*]

248. OF THE DECIMAS. WHAT SHOULD BE PRESENTED TO THE PARISH PRIESTS IN CONSULTATION. — Although it had been established from antiquity that the portion of the decimas was always and everywhere due to the Bishop, nevertheless, according to the law by which we live, it has been introduced that the Bishop cannot, by law of the Holy Canons alone, presume to claim it, unless custom is added. Chapter on the Fourth of Prescriptions. Indeed, even if the custom favored the Bishop, against whom the Parish Priests were acting, that he should share in the decimas collected, nevertheless, he did not exhibit the original title, nor any other documents, by which he could demonstrate that six measures of wheat were expressly due to him by the title of canon, or by a decimal quota in a certain and immutable quantity. Since these things were so, the Parish Priests were obligated, the custom being brought forward, to achieve nothing other than that the Bishop should be considered, as a co-owner or partner in the right of collecting the decimas. Therefore, if the quantity of wheat that the people were obligated to pay could not be collected by them, it would be no less consonant with justice that the portion of wheat due to the Bishop should decrease in proportion. WHAT FURTHER WAS ADDED BY THE FAVOR OF THE ADVOCATE FOR THE PARISH PRIESTS. — When the consultation had been published, the Parish Priests attached a Lawyer to themselves, who would further defend their rights. This Lawyer, according to the facts and the law, as they say, having written and distributed a document to the Fathers, besides other things which he defended, insisted especially on this, that whenever the Bishop, by reason of the fourth decimal, in general, and certainly not by the title of canon or by a certain and immutable quantity, holds a right to collect the decimas with the Parish Priests, he can pursue his rights not against the Parish Priests, but against the people who are debtors; and this, he asserted, particularly occurs if the Parish Priests have used all diligence in collecting the decimas and nevertheless have been able to collect none, or only some, of the decimas. To support this point, the same Advocate wrote down a large number of Canon Laws and Royal Decrees, whether well or poorly. Subsequently, the argument taken from the case of Cassano all'Jonio was presented, with

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the differences that were before their eyes, which, according to their judgment, existed between that case and ours; which differences it is not necessary to enumerate specifically here. After these things were presented, the following question was proposed: "Whether and how the Parish Priests (of the town of N.) ought to provide six measures of wheat to the Episcopal See in this case."

[*Latin ed. p. 249*]

DECIMARUM. 249. Patres, die 28 Augusti, 1857, responsum dederunt: "Affirmativum, si exegerint: alioquin, Episcopus utatur iure suo contra singulos, qui tenentur praestare decimas." CAUSA INCIDENS INDE SUBORTA DE CONCEDENDO BENEFICIO NOVAE AUDIENTIAE.— Huicmodi resolutio Episcopo primum paullo obscurior visa est, adeoque datis iuribus eam luculentius declarari postulavit: sed postmodum, quomodocumque intelligeretur, plena gravaminis contra mensam episcopalem edita ab eodem dicta est. Itaque idem Episcopus novae revisionis beneficium exoravit. Huic veniae elargiendae difficultatem facessebat disciplina Sacri Ordinis, qui tempus pro petenda novae causae revisione utile ad decimum post cognitam resolutionem praefinivit (1). Et quamvis haec ratio proprie praescripta fuerit pro causis iuris ordine servato propositis iuxta pragmaticum S. C. Ep. et Reg. decretum anni 1834; nihilominus usu inductum est, ut eadem disciplina etiam in causis oeconomice disceptatis, qualis erat ea de qua agebatur, utique retineretur. Cum Parochorum Causidici eidem disciplinae mordicus insisteret; at contra Episcopus plura momenta rationum adferret, ut Sacra Congregatio petitae veniae adnueret, opportunum visum fuit ob detrimentum quod mensae episcopali imminebat, controversiam incidenter obmotam iudicio plenae Congregationis deferre. Consultatione itaque conscripta cum dubio « An concedendum sit beneficium » novae audientiae in casu, Emi Patres petitis annuerunt die 5 Martii 1858 dato responso « Affirmative ». CAUSAE CONTINUATIO SUPER MERITO. — Cum res ad hunc statum adducta fuisset, Episcopus etiam suum sibi adscivit Causidicum, qui, refutatis rationibus a parte contraria probatis, bonum sui Clientis ius in tuto poneret. Iamvero sepositis aliis animadversionibus minoris momenti, illud non praetereundum, quod auctoritates ab adversario allegatae non ita fideliter e suis locis ex scriptae fuisse, uti par erat, idem affirmabat. Quidquid vero sit hac de re, illud summopere adnotandum, quod Episcopi Causidicus strenue sustinebat, Clienti suo assistere consuetudinem immemorabilem, aut saltem centenariam ad certam et immutabilem quantitatem sex rublorum tritici.

(1) Vide Appendicem, quam adduximus in Vol. II. p. 440 n. 12.

[*Latin ed. p. 250*]

250. DECIMARIUM. Obligatio erga adversarii. Hoc enim clarissime

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demonstravant duo inventaria supra memorata, scilicet illud anni 1578, et aliud anni 1765, conjuncta cum immemorabili observantia (ante incendium anni 1555), ordine non interrupto, ad haec usque tempora protracta. Attamen, posita hujusmodi consuetudine, quamvis generalmente admitti possint iura ab adversario iactitata, magis vel minus modificata, nihilominus, specialiter in eo casu ubi hujusmodi gravissima adiuncta concurrerent, antiquissimae observantiae standum esse valide propugnabat. Nam in utroque iure talis et tanta vis est consuetudinis immemorabilis et centenariae, ut nulla res titulum ea meliorem portendere valeat. Vis (ita ad rem docet S. Rota in Praenestina Mutae 22 Martii 1819 coram Martinese §. 3.) « Vis dominium? Vis pactum vel privi legium? Cuncta haec, et siquid exoptas, ex immemorabili possessione et centenaria sunt praesumenda.» Quae porro centenaria cum in Causa Cassanensi apprime concurreret, Emi Patres S. C. Conc. non dubitarunt iterum iterumque decernere, Episcopo a Parochis adversariis determinatam et minime diminuendam quinquaginta tritici modiorum quantitatem esse tradendam. Quae cum ita essent, et ex parte Parochorum nihil in ea propositione novi deductum fuisset, die 4 Februarii 1859, dubium disceptandum concinnatum est: « An sit standum, vel re cedendum a decisis?» Responsum fuit: «Recedendum a decisis, et esse servandam consuetudinem exigendi a Parochis quotannis rubia sex tritici.»

SEQUITUR EIUSDEM CAUSAE CONTINUATIO. — Recessum istum a resolutione diei 28 Augusti 1857 aegre admodum Parochi succumbentes sustulerunt: itaque novae audientiae beneficium ipsi etiam petierunt et impetrarunt. Post aliquam deliberationem, cui causa obnoxia fuit, denique iidem Parochi alterius Causidici opera adhibita scripturam typis editam Emi Patribus distribuerunt pro generalibus comitiis mensis Decemb. anni 1859. In hac scriptura Causidicus totus in eo erat, ut rationum momenta a Causidico Episcopi prolata, quorum vi recessum a decisis ortum habuisse non immerito putabat, singulatim discutaret ac refutaret: sed praesertim infringere conabatur argumentum a consuetudine immemorabili, vel saltem centenaria desumptum.

[*Latin ed. p. 251*]

DECIMARUM. 251 Among other matters brought before the attention of the Fathers, the case of Kosso was presented, in which, it is sometimes the case (and this is certainly possible), that the parish priests could not collect even six rubles from the tithes. If this were to happen on several occasions, it would be unjust to prescribe that the parish priests be obligated to pay the quota of wheat due to the Bishop from their own resources; perhaps this is an example drawn from an estate held in tenancy, which, if it is completely destitute, there is no reason to demand payment of the customary dues from the tenant farmer. Therefore, on December 16, 1859, a question was raised in the full assembly: "Should we adhere to the first or second

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decision regarding the tithes?" The Fathers decided: "We should adhere to the second decision, except in the case where the parish priests, after using all due diligence, are unable to collect even six rubles pertaining to the Bishop, and more."

ANOTHER CAUSE ORIGINATING FROM THIS. — If, at times, a great fire breaks out in the forests, which, with flames spreading far and wide, reduces all the trees to ashes, it often happens that, although the flame appears to be completely extinguished, nevertheless some trace of fire remains; so that, as the poet says, "We walk through fire, feigning ashes, with deceitful sorrow." Thus, it is understood that this was the case with this matter: although, with this final resolution and its clause, all grounds for dispute seemed to have been removed, nevertheless, after several years, one question arose between the Bishop and the parish priests. In 1861, a new adversary arose against the Bishop, namely, the parish priest of the place B., who was also obligated to pay five rubles of tithes to the diocesan Bishop. This priest, after consulting with two of the three parish priests who had previously contested the decisions of the Sacred Congregation of Bishops and Regular Canons in previous years (the third parish priest of the same place remained completely silent), refused to pay the five rubles that he owed for the year 1861 to the Bishop, just as the other two mentioned parish priests refused to pay the quota of one and a half rubles from each for the same year 1861. Therefore, the Bishop, through separate letters, summoned these three to appear before the judge of his own ecclesiastical court, who, after hearing both sides as customary, rendered a judgment favorable to the Bishop against each of them. The parish priests, yielding, appealed to the Civil Tribunal.

[*Latin ed. p. 252*]

252. The appellation, styled "Judge of the Venerable City," intervened, who did not hesitate to confirm the sentence appealed, so that the sentence itself passed into a final judgment. While the disputes were still pending before the aforementioned ecclesiastical judge of the Venerable City, the parish priest of the five florin debtors, both for his own and for those of the other two parish priests, of whom I spoke, had requested, through a supplication presented to the Sacred Congregation of Bishops and Regulars, that it be declared whether the words "having employed all due diligence" in the resolution of December 16, 1859, should be understood to mean that each parish priest was obligated to summon each debtor of the tithes to court and to bring them to judgment, after having made unsuccessful attempts at amicable settlements. But the Sacred Congregation, considering the pending dispute, initially refused to rule according to the practice observed in similar cases, but responded: "Let us await the outcome of the cause." Therefore, when the cause finally reached a definitive conclusion, the same parish priest, both for his own and for the others, again petitioned

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the Sacred Congregation to deign to resolve the controversy that he had raised. Consequently, the Sacred Congregation ordered that the petition be sent to the Bishop. It was then that he sufficiently appointed his representative to conduct business in the city, who presented the arguments of the fiscal prosecutor and of the Bishop to the Sacred Congregation. Furthermore, the parish priests elected their own defender in the city, who wrote and published, in print, a defense of his client, setting forth the legal and factual arguments. Before he put pen to paper, the doubt which is read at the bottom was discussed before the Most Holy Congregation, which they call the Sacred Congregation, and was properly accepted by both sides.

ARGUMENTS PRESENTED AGAINST THE RIGHTS OF THE BISHOP. – Regarding the facts, the defender of the parish priest of the five florin debtors (who asserted that he had employed all due diligence) presented the testimony of several people who testified that the parish priest had publicly announced the collection of the tithes before the people at the altar. He added that he had directed a public official of the municipality to warn families about this obligation; that he had personally impressed the same families on several occasions; that the voices of public criers had resounded throughout the city concerning the tithes; that sixty people had been summoned to court by the same parish priest, and had been condemned by the judge's sentence, and that a public official had been sent to execute the condemnations, and nothing more than miseries and...

[*Latin ed. p. 253*]

DECIMARUM. 283. Calamities, along with their implications and consequences, were discovered to have originated from the very source: the contract for the collection of tithes had been publicly posted by edicts from the parish priest, and only one offering, consisting of a single, very small coin, had been received. Regarding the law, the Parish Priest's Defender argued that, concerning those indebted for tithes, ecclesiastical censures should be applied, which only the Bishop can inflict (Cap. 5, Pervenit, and Cap. 21, Ex parte De Decimis). Furthermore, in Ciernen, 2, Dispendiosam de iudic, it is written that proceedings regarding tithes are valid simply, plainly, and without the clamor of a trial and its formalities: "which he declared to be most wisely established"; otherwise, one would have to proceed in court against the entire populace. Moreover, he maintained that it is established by law that the Bishop has the right to demand the fourth part of the tithe from the Parishes, if they have collected the tithes from the people; but if the situation is different, the Bishop does not lack the right to act against individual defaulters or those indebted for tithes. Although the Bishop does not have a direct action, strictly enforced, for this matter, it is nonetheless a noble duty of the judge, by whose power he can similarly, or even more so, obtain what he requests, as he attempted to demonstrate with the example of the case of Novara, which is discussed in Decis. 122, Decis.

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321, and Decis. 357, Par. V., Tom. 1, Recent. From this doctrine, the Defender inferred that, since no obligation inheres in the Parishes to collect tithes, especially the fourth part of the tithe due to the Bishop, natural reason and equity demand that the interpretation of those words should not be made so rigidly; so that it is sufficient if all the diligences that a good head of a family can reasonably employ have been diligently and thoroughly applied, without it being necessary to resort to a judicial examination.

WHAT WAS BEING DEFENDED BY THE BISHOP IN HIS OWN JURISDICTION. — The Bishop, who had initially refrained from intervening in the affairs of the advocate, then chose his own Defender in the city, who, in addition to the deductions he himself had recorded, brought forth arguments that, when considered in opposition, rejected the Parish Priest's claim of five guilders, either as exaggerated or as not worthy of any consideration. For, in the town in question,

[*Latin ed. p. 254*]

254. DECIMAS. Multorum inveniebatur qui decimas, quae erant 27 librarum tritici, et quae aestimabantur pretio non plus quam 30 obolorum, forsitane pendendae essent, sed tamen, reliqua maxima pars eiusmodi, quae decimas solvendae plusquam idonea reperiebatur. Alioquin vero, cum de tenuissima summa res esset, et eaque liquidissima, nihil causae erat, cur magnae curae, magnae expensae, magni labores exquirerentur. Deinde, ea, quae a Parocho ad diligentiam a se adhibitam ostentandam et populi miseriam exaggerandam dicta vel gesta fuisse dictitabantur, ut plurimum, in fide nitebantur ipsius Parochi, qui in propria causa testis esse nullatenus poterat. Quod vero ex adverso ponitur contra decimatores procedendum non esse cum strepitu fori, sed per censuras ab Episcopo irrogandas, respondebatur, primo textus adductos ita esse intelligendos, ut non celeriter et immediate ad remedia iuris procurandum sit, sed amicabilia quaeque tentamina in antecessum esse exhaurienda: quae si irrita cedant, stultum esse illud contendere, ut decimarum debitores in ius rapi non possent: si enim ita se res haberet, ubi decimatores se in ius rapi non posse pro certo scirent, admodum pauci invenirentur, qui decimas absque ulla difficultate exsolverent. Praeterea, cotidianam experientiam nos doceri, nullo non tempore morosos decimarum debitores iudiciali fuisse actione compulsos. Ex quo facile erui quam et indecorum et odiosum sit asserere, pro decimis exsolvendis, nostris praesertim hisce temporibus, decimatores censuris esse afficiendos. Allata insuper Doctorum auctoritate protuebatur Defensor, eos, qui ad adhibendam diligentiam obstringuntur, non liberari, nisi iudicialia remedia corripuerint, si necessitas postulet. In casu autem proposito nullatenus dici posse contendebat omnem diligentiam a Parochis in decima exigenda positam fuisse, nisi iudicialibus remediis manus fuisset apposita. Denique circa auctoritatem a causa Novariensi penes S. Rotam pluries discussa observabat, eam causam

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ita terminatam ultimo fuisse, ut Parochi qui in contentionem venerant, ad decimas a populo exigendas compulsi fuerint. Quod si in eiusdem discussione Sacer Ordo tenuit, Episcopis viam non esse inter-

[*Latin ed. p. 255*]

CHAPTER TEN. 255. While the right to exercise the noble office of a judge has been granted, it does not imply an obligation to exercise it. After these and other matters were thoroughly discussed, the purpose was to resolve the doubt. "Whether, and in what manner, and against whom, diligence should be exercised by the Reverend Father N., and by the Reverend Fathers N N., in the judicial examination of the case." RESPONSE. The Eminences replied on June 3, 1864: "Affirmatively in all respects." FROM WHICH WE GATHER: I. In matters concerning tithes, which are collected by the pastors with the obligation of a portion being paid to the Bishop, it is important to determine whether the Bishop receives this portion as a simple associate, or by a simple title of the fourth tithe, or rather, whether a fixed and unchanging portion is due to him by a pact, whether tacit or solemnly entered into. II. In the former case, if the collection of tithes decreases, the same portion due to the Bishop will also decrease; in the latter case, this will not be the case. III. A proven custom of receiving a fixed portion may take the place of a pact: for such a custom is a fruitful source of the most excellent titles. IV. However, it is not equitable that the Bishop should receive the same portion if the pastors and contributors are unable to collect it. V. Nevertheless, the pastors must exercise all diligence, which may extend so far as to summon the debtors of tithes to court, and to obtain a judicial sentence against them. VI. However, if negligence is shown, the Bishop should not be prevented from exercising the noble office of a judge which belongs to him, namely, to compel the debtors of tithes to pay the tithes to a third party, who does not have a direct claim against them. VII. Finally, We gather that the Holy Congregation, even in cases of an economic nature, after a certain period from the date of the resolution, does not ordinarily grant a new hearing. VIII. After that time has elapsed, if just causes arise, a new hearing may be obtained with the full Congregation, which will judge whether to grant it in the same cases.

[*Latin ed. p. 256*]

256 FROM S, CONGREGATION! OF THE MOST HOLY RITES. IN VICENZA, THE CULT OF CONFIRMATION, WHICH HAS BEEN OBSERVED FROM TIME IMMEMORIAL, IS DEDICATED TO THE SERVANT OF GOD, LAURNTIUS SOSSIO, A MARTYR, NOW BLESSED, WHO LIVED FIVE YEARS. On August 31, 1867. SOME ACCOUNTS OF HIS MARTYRDOM ARE RELATED. — In the year 1808, in Bassani, he was born from the marriage of George de Lorenzoni and Mary Rose, of humble station, and at his baptism, he received the name Lawrence, whose

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martyrdom he would strive to emulate. It is a most remarkable thing that is reported about this very young child, among other historical accounts: that when his father, compelled by the necessities of war, had to abandon his wife and home, and after nine months returned, he found his son, born ten days before, at home, and, suspecting this child to be conceived through adultery, he intended to kill his wife with a drawn sword; but the child, extending his right hand, prevented his father from committing this crime, uttering these words, miraculously emitted: "Stop, Father: my mother is innocent, and I am your son." Five years later, on April 5th, which was the Friday, when the young boy was alone in the field, far from his mother and companions, several Hebrews, whose insane rage against Christians was growing remarkably at that time, believed that they would be pleasing to God if they killed a Christian on that day, seized the holy boy, bound him to an oak tree, and tortured and murdered him in terrible ways. Then, to conceal the crime, they buried the body under stones. After they had departed.

[*Latin ed. p. 257*]

VICENTIN. The venerable body, having been murdered by 237 men, was buried in the public cemetery of Marostica, which is a small town not far from Bassano. But the glory of the martyr was indicated by a nocturnal splendor, which, to the manifestation of God, caused the citizens of both Marostica and Bassano to dispute over his body. However, guided by divine providence, the oxen carrying the bier brought it to Marostica, and from that time forward, an altar was built there in honor of the blessed martyr, confirming the extraordinary veneration of the people by the Lord, as evidenced by the following signs.

THESE ARE THE THINGS WHICH HAVE LED TO AN UNFORGETTABLE CONFIRMATION OF HIS CULT. It is well known that Pope Urban VIII, in his decree, ordered that the names of all those who enjoyed public cult in the lands without the judgment of the Apostolic See should be removed from the list of saints, unless their virtues were proven by a rigorous examination, and their glory was manifested by miracles granted by God. However, he stated therein that he did not wish to take anything away from those (whether blessed or saints) who had obtained public cult a hundred years before his decree. Therefore, in order to prove, as in the case of the blessed martyr Lawrence, that an exception was made from time immemorial regarding the obtaining of public cult, the advocate had to demonstrate that public cult had been constantly and openly rendered to him for at least a hundred years before the year 1634, when that decree was issued, by ordinaries who were aware of it and tolerated it. And indeed, he successfully accomplished this with a variety of arguments. Firstly, he demonstrated, with numerous testimonies of ancient writers, that the blessed martyr Lawrence had been granted public cult from the

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year 1485, when he was killed; thus, it was clear that he had enjoyed public cult not only for a hundred years, but for over a hundred and forty years before the decree of Urban VIII. He also sought to confirm this with certain indications of public cult, such as: 1.° Solemn processions or translations of the holy body, the first of which took place in the very same year in which the blessed martyr was killed by the swords of the wicked, as we have mentioned above; 2.° Images and emblems created during the same 15th century, as Matta de Canoniz. Sanctorum writes in part 2, chapter 23, question 13: "The species of this kind of cult are demonstrated by experts under oath, by paintings, images..." created from the time from which it can be determined that a hundred years of cult preceded the decree; which is the opinion of Urban VIII in the aforementioned decree, and of Benedict XIV, book 2, chapter 23, number 12; 3.° The title of the blessed Jeta, volume III, page XXIX, 17.

[*Latin ed. p. 258*]

258 VICENZA. And the veneration of the Martyr Saint Lawrence, from the 15th century until our time, which has been bestowed upon him: according to what the same Pontiff Benedict XIV affirms in the same book, 2, chapter 24, number 26. And the arguments for the exhibited cult are: 1st, the title of Saint and Blessed, which has been given to him publicly and openly, both in word and in writing, by all at all times. 2nd, the unforgettable veneration and distribution of his relics; which, among other arguments for public cult, are enumerated by Benedict. 3rd, the records of sacred visitations; from which it is clear that the Ordinaries were aware of and approved of the public veneration paid to the Blessed Martyr: and the most reliable documents were presented as proof of this. Although these sacred visitations are only three, they are sufficient to demonstrate both the knowledge and the tolerance of the Bishops: especially since it was not necessary to present them; for, as Benedict XIV writes in the aforementioned passage, "it can be demonstrated from elsewhere the knowledge and tolerance of at least the Ordinaries, since it is presumed that the Ordinaries are aware of what is done in their Dioceses." Indeed, what could have been done was this: the Advocate would have presented thirty Bishops, who from the time of the Martyrdom of Saint Lawrence have successively presided over the Church of Padua, and many others who later presided over Vicenza, to which the town of Marostica is subject, and would have shown how the people continued the cult of the Blessed Martyr, and the frequent translations of his sacred body, carried out with solemn pomp, the altars erected to him, his images publicly displayed, the public veneration and distribution of his relics, and finally, the annual feast celebrated in his honor, especially in Marostica, which they could not have ignored? 6th, the annual feast celebrated in his honor, which, among other arguments for public cult, is enumerated by Benedict XIV in the aforementioned passage; and the

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Advocate presented excellent evidence of this annual feast, especially since the matter concerned a public affair. 7th, the offerings: which no one can deny are signs of public cult; and sixteen men of eighty years of age testified that they had seen votive tablets in the altar of the Blessed Martyr; and also a humble letter from the clergy and people of Marostica, in which they affirmed that in times of public calamity, they all had recourse to Saint Lawrence and offered him gifts of wax and oil. 8th, finally, the continuation of the cult until these our times. For even today, his body is in Marostica, and a fragment of his right arm is in Bassano.

[*Latin ed. p. 259*]

VICENTIN. 259. With great honor is it venerated: his image, painted in the 14th century, is preserved and openly displayed in the church of the Most Holy Virgin of Graces; the feast day instituted in his honor from time immemorial is celebrated to this day, and it is very easily demonstrated that offerings of wax and oil are still made. He presents a collection of proofs which confirm and, as it were, crown the support of Benedict XIV for the ancient cult of the blessed Martyr Lawrence, in a letter which he gave, when he was already Supreme Pontiff, to Benedict, Advocate of the Sacred Consistorial Court and Promoter of the Faith: in which he gives a clear testimony regarding the ancient cult of this Martyr, and concludes by affirming that nothing further is required to demonstrate that the same public cult is due to him (namely, to Lawrence and to others) in the same places, etc. A synopsis of the arguments. WHAT WAS OBJECTED TO BY THE PROMOTER OF THE FAITH. —The Promoter of the Faith indeed raised a few points in this controversy; but these are of such a nature that we cannot entirely disregard them. Firstly, he alleged that there was a lack of knowledge and tolerance regarding the Apostolic See or the Ordinary in this matter, which, however, Benedict XIV, in the aforementioned passage, chapter 23, "ad," requires for the approval of a case that has been practiced from time immemorial; indeed, he even asserted that the monuments of a centuries-old cult were lacking before the decree of Urban VIII. To prove this, he argued that a certain cult had been established without the knowledge, and indeed expressly against the will, of the Holy See and the Ordinary who presided over the Church of Padua at that time, to which the town of Marostica then belonged, with clear words of opposition and prohibition. To support this, he presented a letter from Sixtus V, dated in the year 1475, addressed to the Lords and Officials established in various parts of Italy, in which he expressly forbade, under pain of excommunication, that images of a certain Simeon of Trent should be painted, that writings in the form of histories should be written, and that they should be publicly displayed for sale, by which things the faithful were incited against the Jews and their property: all of which reveals a very bad presumption, that someone should be referred to as a saint, and that miracles should

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be approved, is reserved solely for the judgment of the Apostolic See. But scarcely ten, the Promoter of the Faith continues,

[*Latin ed. p. 260*]

260 VICENZA. From the time of that Sixtine Constitution, the years had passed when our young man, Laurence, was killed by the Jews; and his body, with solemn ceremony, was carried from the public cemetery of Marostica to the chapel of St. Sebastian, and honors were publicly paid to him as a martyr, despite the prescription of the Holy See, which, given the same circumstances, was to be considered a general matter; from which arose such anger among the citizens of Vicenza towards the Jews, that they were compelled by a public decree to banish them all from their territories, which indeed Sixtus had forbidden in that very letter. As for what concerns the Ordinary, the Acts of the Visitation of the Faith Promoter, which the Most Reverend Peter Barozzi, Bishop of the Church of Padua, conducted in October of the year 1488, most opportunely objected, in which the following is recorded: "On the 14th day of the month of October, in the year 1488, in that altar (in the Church of St. Sebastian) which, facing towards the East, is on the left, there is the body of a boy, whose name I do not know... and because he was killed by the Jews, he is held in such veneration in that town (Marostica), that he is adorned with garments, rings, and similar things. No one ought to publicly venerate him. And after the Bishop has received certain features and signs of the boy, he concludes: They say that even to this day his hair and nails grow; but this, as it is evident, is nothing miraculous, because, as long as he was still alive, his body was full of fluids." The Faith Promoter states that it is unknown what the other Bishops of both dioceses thought, since, from the year 1488 until the year 1587, no record of the cult of Laurence was found in the Acts of the Pastoral Visitations, as testified by the General Vicar of the Diocese of Padua in his letter to the Bishop of Vicenza, dated in the year 1863. Therefore, he concludes that only two monuments remain, which to some extent are valid for proving the prescription: 1.° The Acts of the Pastoral Visitation made in the year 1787 by the Reverend Father Julius Urban, General Vicar of the Diocese of Padua, who asserts that the body of the Blessed Martyr is still whole, and that it was formerly customary to have a great gathering of people out of devotion; but the Faith Promoter says that this is far from the decree of Urban, from which the legitimate cult must begin, and it is necessary that the centennial prescription be established. 2.° Two tablets, depicted by experts in the 15th century, which he endeavored to undermine in value. Finally, even...

[*Latin ed. p. 261*]

VICENTIN. 261 Pope Benedict XIV was concerned to strengthen the case for our young martyr: 1.° because it is supported by the entire testimony of

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the city of Padua, which has been brought to light sixty-six years after the death of that young man; 2.° although the Pope asserts that nothing is lacking to ensure that the same devotion be given to those young men (among whom is our Lawrence) in the same places where it has been continuously practiced for a hundred years prior to that time, he adds, "provided that the ordinary authorities are aware of and approve of it," which, in our case, has certainly not happened, but rather the opposite has been demonstrated. THE SPEAKER'S RESPONSE AND REFUTATION OF OBJECTIONS. — Having reduced all that had been presented by the Promoter of the Faith to two main points, namely, that this devotion was flawed because it was begun without the knowledge of the Apostolic See and against the will of the local Ordinary, and that the documents of a hundred years' prescription are lacking for this devotion; to exclude the ignorance of the Apostolic See, he said that it is quite unbelievable that so many wise and upright bishops did not warn the Pope about such a serious matter: it is certain that they must have been either grossly ignorant or negligent in their duties. Then, he denied that the Apostolic See was ignorant of the devotion to our martyr in Marostica and elsewhere, stating that Bishop Marcus Corner of Padua himself brought the process, which he had prepared for the canonization, to Rome to Clement VIII; although, after his death in Rome, that process was lost with that same prelate. Did Pope Benedict XIV, then, not know about this, who gave him such a distinguished testimony? And that the Sixtine Constitution, or rather, the special letter, concerned this case. Finally, the lawyer argued that the Apostolic See, or its knowledge and consent, is not necessarily required for a legitimate prescription of devotion to be established, but that the knowledge and tolerance of the Ordinary are sufficient; and he demonstrated this by citing the very words that Pope Benedict XIV used when discussing this matter, frequently cited in the aforementioned passage: "Furthermore, it is necessary that the knowledge and tolerance of the Apostolic See, or of the Ordinary, be added to establish an unforgettable devotion; hence, although the Roman Pontiffs may have constantly ignored the devotion to our blessed martyr, nothing prevents it from being legitimately begun and established here." But, he added, there is an explicit prohibition from the Pope in the aforementioned Sixtine Letter. But, the excellent speaker replied, this does not remove the devotion itself, but rather its consequences, namely, the hatred of the citizens towards the Jews.

[*Latin ed. p. 262*]

262 VICENZA. From this place, evils arose day by day, causing great sorrow. Consequently, Pope Sixtus IV, concerned about the peace, ordered that the people of Trent (Tridentinus) abstain from painting images of the slain child Simeon, and from other public acts of worship which we have mentioned above, so that, for this reason, the faithful of Christ would not

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be incited against the Jews and their property; moreover, because many of them had suffered greater dangers as a result. However, despite this, as testified by Benedict XIV in book 1, chapter 14, paragraph 4, in the year 1558, the Apostolic authority approved the worship (of St. Simeon). As for the prohibition issued by the Bishop of Padua during his pastoral visitation, the Orator feared that this was done for the same reasons: for, at almost the same time, a child had also been killed by the Hebrews, and the same consequences were feared, namely, the anger and persecution of the faithful against the Jews, which were constantly increasing, so that these people were finally forced to leave the territory of Vicenza. Therefore, he did not abolish the worship, but rather, the prudent Ordinary sought to eliminate and prevent the consequences thereof, not confirming with the force of his will the things which had been commanded orally or in writing in connection with the circumstances. For, the lesser brethren, in whose temple the body of St. Lawrence was kept, were not punished with any penalty of excommunication, nor were they ordered to remove the body, nor to erase all signs of worship. On the contrary, the Orator did not fail to assert, and rightly so, that, according to the acts of the same pastoral visitation, the worship of the blessed child had been confirmed from the very year in which he was killed; and that the acts of the Bishop did not interrupt this worship, but rather, made the faithful more prudent and cautious in observing it. Finally, concerning the subsequent pastors, the Orator said that it is true that there are only three acts of pastoral visitations, of which only one refers to the time before the publication of the decree Urbanianum. But this is of little importance; for the will of the Ordinaries should not be deduced only from written and explicit acts, but also from silence itself, which, according to Benedict XIV, is sufficient as evidence, as stated in the aforementioned passage, to demonstrate the tolerance and knowledge of the Ordinaries: and he writes thus: "It is possible to demonstrate the knowledge and tolerance of the Or-

[*Latin ed. p. 263*]

VICENZA. 263 "Indeed, those sums [of money] are given because the Ordinary [bishop] is presumed to be instructed [regarding the matter] which occurs within his diocese." "Therefore," the Advocate concluded, "until the opponents present contrary testimony from any Bishop, whether of Padua or Vicenza (besides that of Peter Barozzi, which, as we have seen, was compelled by the necessities of the time), the silence of the Ordinaries should be considered as the most eloquent approval of this cult." Secondly, it was argued that there was a lack of documents proving a centennial [one hundred year] prescription [of the cult]. The Advocate refuted this by enumerating several such documents, the most important of which are: the records of the pastoral visitation made in the year 1488 by the Bishop of Padua, Peter Barozzi, in Marostica; a very ancient, handwritten document

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found there in the monastery of the Brothers Minor of the Observance; a marble inscription in the grand hall of the Council of Vicenza, in which mention is made of the exile imposed on Saint Lawrence by the Jews; and a certain discussion concerning Saint Simon of Trent, which is highly praised by Benedict XIV (in the aforementioned *Epistola Superlicéa* addressed to Benedict the Veteran), in which, among other things, the following is read in the vernacular language. - The religious cult of this holy Child has always remained unchanged over the long period of two hundred and sixty years, from his martyrdom to the present time, both in Marostica and in neighboring places. In the calamities of these people, both private and public, recourse is made to the Lord through his intercession, and on these occasions, the sacred reliquary is brought forth, so that the people may burn with a greater fervor of religion. These documents, in fact, predate the time of Urban VIII by a long time. And if another monument, already published for a centennial [period], is desired, the Advocate stated in the aforementioned records of the pastoral visitation made by the Prelate Julius Urban in the year 1587, of which we have already spoken. He also mentioned the two tablets which, in the 15th century, were judged by experts to have been works of piety, and which are publicly displayed in the church of Saint Mary of Grace in Bassano. Finally, since the Promoter of the Faith had presented the very argument drawn from the support of Benedict XIV, as if the entire Patavine Curia were testifying, the Advocate, using a new method of argumentation, accused the same Pope of levity and contradiction: of levity, because the same Pope, who had so explicitly and thoroughly discussed the antiquity of the cult of Saint Lawrence...

[*Latin ed. p. 264*]

264. YICENTIN. had, it is said, given his support through a written document, a fragile and weak one, as if he himself had not previously demonstrated the strength and authority of this very monument: a contradiction, indeed. For he acted contrary to the canons which he himself had established; for among those canons concerning the establishing and promoting of the veneration of each blessed individual, he placed this as paramount: namely, the knowledge and tolerance of Bishops. Since the adversary denied that this was present in the case of our Laurentinus, it follows that, through his own words, he contradicted this Pope, asserting that he had rendered judgment against himself in this matter. And he concluded eloquently, saying that, should he perhaps receive a contrary judgment in this cause, it would be attributed to him that he had dishonored himself before so great a Pope. With these things abundantly presented, the purpose is to resolve the doubt: "Does it concern the public and ecclesiastical veneration rendered from ancient times to the aforementioned Servant of God, or does it concern a case excepted from the Decretals of Pope Urban VIII?"

RESOLUTION. — After the Fathers had discussed the case on August 31,

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1867, and after having heard the opinion, both spoken and written, of the Promotor of the Holy Office, they judged it fitting to respond: Affirmative, that is, it concerns a case excepted. His Most Holy Lordship approved and confirmed this judgment on September 5 of the same year.

FROM WHICH WE GATHER:

I. Although the Reverend Urban VIII subsequently forbade the public veneration of any Servant of God without Apostolic Authority, nevertheless, he greatly valued long-standing or centennial customs by which the Christian people had venerated a certain Servant of God as Blessed or Saint.

II. Such long-standing or centennial customs of veneration are to be held as pertaining to the worship of the faith, whether concerning a martyr, or even infants who were killed in hatred of the faith, and who have not been excluded from the public veneration due to the glory of martyrdom.

III. Such customs are to be proven by that kind of argument, and by that reason, by which other legitimate customs ought to be proven, according to their own nature.

[*Latin ed. p. 265*]

VICENTIN. 265 Another decree of the same kind was issued on the same day: the doubt proposed was of this nature: "Whether the cult rendered from time immemorial to the Servant of God, the virgin of the secular order, called Beata, consists of a public and ecclesiastical cult rendered from time immemorial to the aforementioned Servant of God; or whether it pertains to a case excepted by the Decrees of Pope Urban VIII." Referring the matter, the Most Eminent Cardinal Prospero Caterini, the Sacred Congregation responded: "Affirmatively, that is, it pertains to a case excepted." This judgment was confirmed by the Holy Father on September 5th. Another decree of a different kind follows. From Rome, or Bologna, concerning the canonization of the Blessed Joseph Labre, Confessor: "Whether it is established that the processes concerning him, carried out with Apostolic authority, one in the city, the other in Monte Falisco, are valid, considering the new miracles manifested in them; whether the witnesses were duly and correctly examined, and whether the testimonies produced were legitimately obtained, in the case and to the effect of which we are speaking." Presented by the Most Eminent Prefect, Cardinal Patrizi, the Sacred Congregation responded on that day: "Affirmatively, in all respects." This judgment was confirmed by the Holy Father on September 5th.

[*Latin ed. p. 266*]

266 CONCERNING THE BEATIFICATION AND CANONIZATION VENERABLE SERVANT OF GOD CLEMENT MARY HOFBAUER, PRIEST, AND DISTINGUISHED PROPAGATOR OF THE CONGRE-

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GATION OF THE MOST HOLY REDEEMER. We have previously summarized the initial stages of this cause before the Holy See in Volume II, pages 465 and following. However, since progress in these causes cannot proceed unless it is established that obedience has been rendered to the Decrees of Urban VIII concerning the public ecclesiastical cult of Servants of God not yet canonized, and furthermore, since the ordinary process concerning this matter had been duly instituted by the Most Reverend Archbishop of Vienna, and a judgment had been rendered; it was necessary to present a question to the Holy Congregation of the Most Holy Redeemer: Whether this judgment concerning obedience to the aforementioned decrees should be confirmed. Therefore, the Advocate, presenting the cause, demonstrated that everything had been observed to the letter in this new process, namely, that nothing was lacking in it: for there was no lack of authority in those who presided over the investigation, since the Bishop of Cisamensis was duly provided by the Most Reverend Archbishop of Vienna with all necessary and appropriate means, and other officials were appointed with the same authority to carry out the proceedings: numerous witnesses, distinguished for their knowledge and integrity, were summoned, duly inducted, cited, sworn, and legitimately examined; investigations and inquiries were diligently undertaken and instituted in those places where anyone might suspect that vestiges of a cult might exist. After these things, the Advocate proceeded to demonstrate the merit of the cause, showing that obedience had been rendered to the Decrees of Urban VIII concerning the non-exhibition of public cult. He demonstrated, in other words, that all the signs of veneration, and indeed many of them, exhibited to the Servant of God, had nothing in common.

[*Latin ed. p. 267*]

WINDOBONA. 267, concerning that public veneration which is shown to the Blessed and Saints, who have been canonized. Therefore, he concluded that the sentence issued should be confirmed. A discussion regarding gynoptics. THOSE THINGS WHICH THE PROMOTER OF THE FAITH OBSERVED. — The Censor was able to note certain things, of little importance, which were contrary [to the canonization], from which we select the following: He observed that, although the translation of the testimonies into the Latin language had been approved by the delegated judge, and declared to be in all respects and in every way in agreement with the original, it had not nevertheless been considered valid in Roma, especially by the Most Reverend Cardinal Relator. Furthermore, he wished that the judge had visited certain Italian churches, which it was known that the Servant of God had governed for many years. The Promoter of the Faith, adding weight to the merits of the cause, noted several facts or even expressions in the written accounts of the life of the Servant of God, which, although not arguments for ecclesiastical cult, he said were

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of that nature, which could invite to the rendering of cult: for he had also observed that such things were forbidden by the teaching of Benedict XIV, *De Servorum Dei Beatorumque Virorum Emulatore*, book 2, chapter 12. And he confirmed that such invitations to public veneration of the Servant of God were not lacking, by the testimonies of the witnesses; for in the first process, Witness XIX testified: "I can attest that I was present at the solemn translation of the body of the Servant of God to the church of the Scalae Marianas... I can also attest that then the Apostolic Nuncio, and the present Archbishop of Olomouc were present... their presence added splendor to the solemnity." Indeed, in this second inquiry, Witness IV recounted: "I can attest that people, as Father Hofbauer's bones were being transferred to a new ark, eagerly sought the relics." And this witness added: "They flocked, and still flock, to the tomb of the Servant of God, praying often for entire hours, and still pray there." To these, the Censor added, that if one were to add the lit lamps or candles, one would find almost countless incentives to excite ecclesiastical cult. WHAT THE ADVOCATE FOR THE CAUSE WOULD REPLY TO THESE OBSERVATIONS. — To satisfy the Censor regarding the first point, he presented an Attestation from the Most Reverend...

[*Latin ed. p. 268*]

268 VINDOBONA. Cardinal Reisach, the Relator in the cause, having compared the process with the original, testified that the aforementioned judge had presented the same. In response to another objection, he stated that it was not necessary for the judge to visit all the places where the Servant of God had resided for some time in the course of his duties, as that would be an intolerable burden. Furthermore, Benedict XIV taught that proof of devotion not rendered in churches and chapels, but different from the place where the Servant of God is buried, can be provided through witnesses; and he added no further words about further investigation, "unless, perhaps, a promoter of the faith had previously confirmed the existence" of devotion in those places: "I. 2 c. 15 n. 10." Regarding the other objection concerning the merits of the cause, the Advocate, among other things, cited the teaching of Benedict XIV, Z. 2 c. 13 w. 4: "If these arise from a sincere devotion, removed from any human industry, then they will be considered such that they deserve to be approved; but if they arise from opinion and reputation of sanctity, and are not done in the name of the Church, nor instituted by the Church itself to exhibit devotion to the Blessed and Canonized, then they will be referred to private devotion, and under no circumstances can they be said to be contrary to the Decrees of the Urbian Council." He added that this was all the more true in the case of individuals praying privately at the tomb, and even more so because such actions are often cited to demonstrate the reputation of sanctity. Nor are they those that can invite the rendering of ecclesiastical devotion, since

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they are acts that, if repeated a thousand times, always remain in the category of private devotion; especially since the Advocate maintained that the expression used by Benedict XIV should be referred to entirely different cases, when considered in context. Regarding the lights lit near the tomb of the Servant of God on the day of commemoration of the dead or the following week, he responded that this concerned a matter about which no one could be deceived, because such is the custom in Germany, as in other regions as well; and that the tombs are honored with lights on those days not because the deceased is indicated as being among the blessed, but to signify that this person also participates in the prayers and suffrages by which the souls detained in purgatory are helped, especially during those times. He confirmed this with what Benedict XIII wisely discussed when he was still a minor: "Sermon sopra il Purgatorio," sermon 9.

[*Latin ed. p. 269*]

VIENNA. 269. Having considered this and other matters, the following question was put to judgment: "Whether the sentence pronounced by the Delegate Judge, from the Most Eminent and Reverend Lord Cardinal Archbishop of Vienna, concerning the 'never exhibited' cult [i.e., lack of public ecclesiastical cult] of the aforementioned Venerable Servant of God, or concerning obedience to the Decrees of Pope Urban VIII, should be confirmed in the case and to the effect of which we are speaking."

RESOLUTION. — The Eminent Fathers entrusted with the safeguarding of the sacred rites, after carefully considering all matters, and after hearing the voice and writings of the Reverend Father D. Peter Minetti, Promoter of the Holy Faith, in the ordinary proceedings on August 31, 1867, have written that the sentence should be confirmed. This Resolution was confirmed by the Most Holy Lord on September 5th.

FROM WHICH IT MAY BE GATHERED:

I. According to the solemn Decrees of Urban VIII, proceedings cannot advance further in the causes of Venerable Servants of God, unless it is established that a public ecclesiastical cult was not exhibited to them.

II. This is completed by a new ordinary process established for this matter, and by a sentence concerning the lack of an ecclesiastical cult, issued by the Ordinary or by a delegate from the Ordinary, which must be confirmed by the Apostolic See.

III. However, the signs of ecclesiastical cult, which are customarily exhibited for the canonized, must not be confused with the signs of a private cult, or of the veneration of great esteem given by the faithful to a Servant of God out of private piety.

Two other Decrees of this kind were issued on the same day and published in Rome, one of which concerns the cause of the Venerable Servant of

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God Generoso from Promosello, whose synopsis we will provide another time, when we begin to speak of his cause in Volume II, page 36. The other Decree is as follows. Concerning a Roman or Lucanian priest, a member of the congregation of clerics of the Regular Order of Matris Dei, and the first member of the aforementioned congregation, founded by the Blessed John Leonard: "Whether the sentence pronounced by the Delegate Judge... "

[*Latin ed. p. 270*]

270 VINDOBONA. "To the delegate appointed by the Most Reverend and Most Reverend Archbishop of Lucania, concerning the aforementioned cult, the Venerable Servant of God never rendered any service, nor were the decrees of His Holiness Urban VIII to be confirmed in this case and with regard to the matter in question." The cause, presented by the Most Reverend Cardinal B offondi, received the following response on August 31, 1867: "The sentence is to be confirmed." This sentence was likewise confirmed by His Holiness on September 5th.

FROM THE HOLY CONGREGATION FOR INDULGENCES.

CONCERNING RELICS.

June 12, 1822.

Summary of the case.

The canonical chapter of the collegiate church of Saints Luke and Faustina in Viterbo had obtained from the Holy Congregation for Rites the faculty of reciting the Office under the double rite of Saints Vitus and Crescentia, whose feast day falls on June 15th, primarily for the reason that the relics of these Saints were preserved in the aforementioned church and were considered to be of great importance. Subsequently, during an examination of these same relics, it was discovered that they were not the tibiae (bones of the leg) of the aforementioned Saints, as had been believed, but rather longer and larger bones of the femur (thigh bone). Arising from this doubt, the chapter and canons, in order not to be deprived of the aforementioned faculty of reciting the Office under the double rite, petitioned this Holy Congregation to declare whether the bones of the femur of any Saint could be considered to be relics of great importance.

Synopsis of the discussion.

It was observed that such a question could be considered to have been resolved by the Holy Congregation for Rites. For the Holy Congregation

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for Rites, which previously...

[*Latin ed. p. 271*]

CONCERNING NOTABLE RELICS. In the year 1667 (in which this Holy Congregation of Indulgences and Holy Relics was established), when deciding upon matters concerning relics, a decree was issued on July 3, 1667, stating: "It is necessary that the relic be notable of that Saint concerning whom the office is celebrated, such as the entire body, or a large part thereof, or the head; and in another decree on January 13, 1631, it was declared that an arm, leg, or that part of the body in which the Martyr suffered could be considered a notable relic, provided it be intact and not small." This decree is observed so strictly that even a tibia alone cannot be considered a notable relic, if it is not joined to the fibula, even if the main bone is the tibia; because, under the name of "leg," the entire member is understood, which consists of the two bones mentioned, namely the tibia and fibula, therefore it cannot truly be called "intact," unless they are joined together. Thus, the Holy Congregation of Rites, on June 3, 1662, having laid these matters down, unanimously decided that the bones mentioned above do not constitute a notable relic, and the following decree was issued. DECREE. "Although every part of the body of the Saints is worthy of veneration; for this is the glory of the Saints, whose portion, although scattered throughout the world in ashes, remains complete in its virtues; nevertheless, the devotion of the faithful is usually greater towards the entire body of a Saint, or its principal members. Whether the bones of the femur should be included among these, so that they might be considered a notable relic, was requested by the Chapter and Canons of the collegiate church of Saints Lucy and Faustina in Viterbo. The Holy Congregation of Indulgences and Holy Relics, having considered the matter, gave its opinion. "The same Holy Congregation, in the Quirinal Palace, on April 15 of the current year, after mature deliberation, and after hearing the votes of the consultants, issued a negative opinion. "And, having held an audience with the Most Holy [Pope] on June 11, 1822, the vote of the Holy Congregation was not only approved, but it was ordered to be made public. "Given in Rome, from the Secretariat of the same Holy Congregation of Indulgences, on June 12, 1822." G. Card. Ab AURIA PAMPHILI, Prefect. R. P. D. Bernardo, Secretary. Petrus Can., Torruca, Substitute.

[*Latin ed. p. 272*]

272 CONCERNING DISTINGUISHED RELICS. From which, one may gather: I. Although the bodies and parts of the bodies of Martyrs and Heroes of the Faith are to be held in veneration as sacred relics; nevertheless, a distinction must be made between distinguished relics and those that are not. II. This distinction is to be made according to the greater or lesser veneration, guided by nature, which the faithful show towards the

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Saint, according to whether larger or smaller portions of the sacred relic are present. III. The Holy See has followed this distinction and has defined it, especially concerning various effects of the sacred Liturgy (1). (1) On the solemn decree of the City of Rome, dated April 8, 1628, approved by Urban VIII (as reported by Gardellini in N. 740 of the recent edition, as well as in the Rubrics of the Missal and Breviary), the Holy Congregation defined, in § 3: "Distinguished relics are the Body, Head, Arm, or Leg, or that part of the body in which the Martyr suffered, provided that it is whole and not small, and has been legitimately approved by the Ordinaries." And when asked on December 3, 1672, "Whether an Office of Double Veneration can be performed for a distinguished relic," and it was stated that the Head, Arm, or Leg are not whole, but are mutilated, and parts are missing, so that they cannot be rejoined; and whether an Office of Double Veneration can be performed for a mutilated relic: "it was answered: The decree of this Holy Congregation must be observed strictly." Also, on June 3, 1662, when asked: "Whether a Tibia [shin bone] is a distinguished relic," it was answered: negatively, according to the Rubrics printed in the Roman Missal and Breviary.

[*Latin ed. p. 273*]

278 FROM THE ACTS OF THE CONSISTORY. August 20, 1867. Our Most Holy Lord, whom God may preserve for many years, held a secret Consistory on August 20, 1867, in which His Eminence and Reverend Cardinal Camillus Di Pietro, having relinquished the title of Saint John before the Latin Gate, requested the vacant suburban church of Albano; then His Eminence and Reverend Cardinal Joseph Maria Milesi, with the prior consent of the Most Holy Father, on behalf of His Eminence and Reverend Cardinal Philip De Angelis, having relinquished the title of Saint Bernard at the Baths, requested the vacant title of Saint Lawrence in Lucina. After which, the same Most Holy Father, according to the customary forms, appointed His Eminence and Reverend Cardinal Philip De Angelis, Archbishop of Fermo, to the office of Chamberlain of the Holy Roman Church. Furthermore, he proposed the following churches: THE CATHEDRAL CHURCH OF ALBANO, vacant through the glorious death of the Most Reverend Cardinal of the Holy Roman Church, Louis Altieri, who, while suffering from illness, gave up his soul for his flock. This church was requested by His Eminence and Reverend Cardinal Camillus Di Pietro, having relinquished the title of Saint John before the Latin Gate. Fourteen miles from the city, within the boundaries of the Roman countryside, the city of Albano is situated, partly on a plain and partly on a hill, and encompasses an area of approximately two Roman miles, containing about eight hundred houses and nearly seven thousand inhabitants, who are obedient to the Holy Apostolic See, both in spiritual and temporal matters. The Cathedral Church, larger in size and more ornate in structure, dedicated to the Martyr Saint

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Pancratius, is immediately subject to the Holy Apostolic See. Its Chapter includes two dignitaries, the first of which, after the pontifical office, is the Archpriest, the second is the Archdeacon, to which is attached a theological benefice; there are eleven Canons, among whom is the Penitentiary, six additional Beneficiaries or Mansionaries, and other priests and clerics who serve in the divine ministry. The care of souls in the Cathedral is exercised by the Archpriest, assisted by other priests, where there is a baptismal font, etc., and among the relics of the saints, the arm of the Martyr Saint Pancratius, the patron saint of the city, is preserved. Furthermore, there is no other parish church or collegiate church found in the city of Albano, but there are four monasteries of men, and two monasteries of women, to which, today, a religious house of the Sisters of Saint Joseph has been added for the education of girls, as well as four lay sodalities, a hospital, a newly established pawnshop, and a seminary.

[*Latin ed. p. 274*]

27-4 FROM CONSISTORY ACTS. The territory of the diocese extends approximately twenty-four leagues, encompassing ten locations. The METROPOLITAN CHURCH OF GUATIMALA, located in Central America, was vacant due to the death of the Most Reverend Archbishop Francis Garcia Pelaez, to which the Reverend Father Bernard Piñol y Aycinena, formerly Bishop of Nicaragua, has been transferred. Guatemala City, and the capital of the Guatemalan territory in Central America, is a spacious and pleasant city built on a plain near the river Las Vacas, enjoying a healthy climate, and is home to approximately fifty thousand Catholic inhabitants. The Metropolitan Church, with its well-designed structure, dedicated to Saint James the Apostle, is attended by four suffragan Bishops. Its chapter consists of five dignitaries, the first of whom, after the pontifical office, is the Dean, followed by six Canons, a Theologian, and a Penitentiary, as well as other priests and clerics serving in the divine ministry. The pastoral care of the metropolitan area is carried out by two priests, who oversee the baptistery, etc., and there is a cemetery outside the city. In addition, there are six other parish churches in Guatemala, some of which are equipped with baptismal fonts, five monasteries for men, and five for women, three convents, several lay sodalities, the pontifical university dedicated to Saint Charles, a large hospital, and two seminaries; a savings bank is being considered to address financial needs. The territory of the archdiocese is very extensive, extending to four thousand two hundred and fifty square leagues, and encompasses many locations. The CHURCH OF SAINT ELIZABETH, located in the Philippine Islands, was elevated to the status of a cathedral by the Holy See through the Apostolic Letters "Qui ab initio fuit homicida" on June 6, 1865, and has been vacant since its original establishment. The Reverend Father Mariano Cuartero y Medina, a priest of the Zaragoza Archdiocese and a member of

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the Venerable Order of Preachers of Saint Dominic, has been appointed to it through the benevolence of the Holy Father, for presentation to the Most Serene Queen of Cattolica. Previously, he served as a professor of theology at the University of Manila, then as Rector of the college of the Order of Preachers in the Toledo Archdiocese, and later as the General Procurator of the same Order in the Province of the Most Holy Rosary in the Philippine Islands. Iloilo City, and the capital of the Iloilo province in the Philippine Islands, is located near the Iloilo River on the eastern side of the island of Panay, built on a plain, enjoys a mild and healthy climate, and is inhabited by approximately twenty-nine thousand people under the temporary dominion of the aforementioned Most Serene Queen. The main parish church, formerly dedicated to Our Lady of Candelaria, has been elevated to the status of a cathedral through previous Apostolic Letters and will henceforth bear the title or invocation of Saint Elizabeth of Hungary, while retaining its original parochial status with pastoral care, and is a suffragan to the Archbishop of Manila. The cathedral chapter, to be established according to the model of other chapters in the Philippine Islands, will consist of a sufficient number of Canons (including a Theologian and a Penitentiary), and some chaplains; meanwhile, two priests will be available to assist the Bishop in performing sacred duties and in carrying out divine services. The pastoral care of the cathedral is carried out by a priest of the Order of Hermits of Saint Augustine, where a baptismal font is located, etc. The Episcopal residences will be as comfortable and decent as possible, and will be located as close as possible to the cathedral, and will be maintained at the expense of the government in the meantime. No other parish or collegiate church is found in the city of Iloilo, but there is a hospice for the sick and the poor.

[*Latin ed. p. 275*]

FROM HISTORICAL CHURCH RECORDS. In Lille/Rijssel, for the benefit of the poor, and for the education and instruction of clerics, a consultation was held, as detailed in the aforementioned Apostolic Letters. The diocese encompasses several towns and districts separated from the Coebuano or Name of Jesus Bishopric, and contains over one hundred and twenty parishes.

The TREVES Cathedral was vacant due to the death of the Most Reverend Bishop Leopold Pelldram. The Reverend Father Mathias Eberhard, previously the Bishop of Banados in the lands of the infidels, and a suffragan of the Treves Church, was elected Bishop by the Chapter and Canons of Treves, with the force of an Apostolic Indult, and, according to the Decree of the Consistory Congregation, was approved by the Holy See and confirmed out of His benevolence. Treves, or the ancient Treveri, is a very old city in the Lower Rhine Duchy of Prussia, located on the Moselle River, with a circumference of approximately two Roman miles

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and containing about one thousand two hundred houses, inhabited by approximately twenty thousand people. The Cathedral Church, of an old and Gothic structure, is dedicated to Saint Peter the Apostle and serves as a suffragan to the Archbishop of Cologne. Its Chapter includes two dignitaries, the first being the Prefect after the Pontifical, followed by eight numerary Canons without theological or penitential duties, four honorary Canons, six beneficed Vicars, and other priests and clerics serving in the divine ministry. The care of souls in the Cathedral is exercised by a Canon Parochial, where a baptismal font is present, etc. There are seven other parishes in Treves and its suburbs, each with a church equipped with a baptismal font, one for men and two for women, a monastery, approximately 275 lay sodalities, a hospital, a charity house, and a seminary with students. The extent of the diocese is quite large, encompassing over three hundred and sixty parishes.

The VAPINCUM Cathedral was vacant due to the translation of the Reverend Father Victor Felix Bernadou to the metropolitan see of Sens (-Auxerre), to which the Reverend Amati Victor Franciscus Guilbert was promoted by the benevolence of the Holy See, at the nomination of the Imperial Sermons of France. The same Reverend Father, previously a diocesan missionary in the diocese of Coutances, Professor of humanities in the smaller seminary of his diocese, and then Rector of both seminaries, and Parochial in the town of Valognes, resigned. Vapincum, Gap, is a town in France and the capital of the province or region of the Upper Alps, surrounded by mountains and located in a plain, with over seven thousand Catholic inhabitants under temporary French rule. The Cathedral Church, dedicated to the Blessed Virgin Mary, assumed into Heaven, is being rebuilt, and in the meantime, divine services are temporarily held in other churches in the city. The Cathedral Church is a suffragan to the Archbishop of Aix. Its Chapter includes nine titular Canons, with a theologian and a penitentiary, as well as other priests who serve in the divine ministry with the boys of the choir, and on more solemn feasts, with the students of the larger seminary. The care of souls in the Cathedral is exercised by a Canon Archpriest, and the Cathedral is equipped with a baptismal font, etc. There is no other parochial or collegiate church found in Vapincum, but there are several religious houses for men and women, a hospital, a larger seminary in the city, and a smaller one in the diocese. However, a charity house is lacking.

[*Latin ed. p. 276*]

276 FROM THE CONSISTORY ACTS. The diocesan territory encompasses the entire region of the upper Alps, and contains approximately thirty thousand inhabitants. The metropolitan church is in Burgos, which became vacant through the death of the Most Reverend Archbishop Ferdinand, Cardinal Priest of the Sacred Roman Church, of the family de la

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Puente, to which the Reverend Father Anastasius Rodrigo y Usto, formerly the Bishop of Salamanca, has been appointed upon the presentation of the Most Serene Queen of Cattolica. Burgos is an ancient city of Old Castile, the capital of a province of the same name, built on the Arlanzam River, and is inhabited by approximately fifteen thousand people, under the temporal dominion of the Most Serene Queen of Cattolica. The magnificent Gothic cathedral of the Most Holy Virgin Mary, assumed into Heaven, is a beautiful and impressive structure, to which, according to the Apostolic Letters entitled "Ad Vicariam," dated September 9, 1831, six suffragan bishops are assigned. The chapter of the cathedral, according to the aforementioned Apostolic Letters, consists of six dignitaries, after the pontifical office, the first being the Dean, four canons with theological and penitential duties, fourteen canons by grace, and twenty beneficed members. A priest exercises the care of souls in the metropolitan church, where there is a baptismal font, etc. In addition, there are nine parish churches in the city of Burgos, all equipped with baptismal fonts, ten convents for women, several lay sodalities, three hospitals, and two seminaries; however, a house of charity is lacking. The territory of the archdiocese extends for approximately seventy leagues, and contains one thousand seven hundred parishes. Furthermore, it was announced that the election, carried out with the assistance of the Sacred Congregation for the Propagation of the Faith, has resulted in the appointment of the Reverend Father John Walsh as the pastor of the church of Sandviken in Canada. Moreover, a request has been made for the granting of the Sacred Pallium for the metropolitan churches of Burgos and Guatemala, as well as for the church of Quebec, at the request of Bishop Francis Baillargeon, who succeeded the deceased Bishop Peter Flavius Turgeon, whom he had assisted in his pastoral duties. Finally, the customary oath was administered before His Holiness by the Most Eminent and Reverend Cardinal, the elected suburban bishop.

[*Latin ed. p. 277*]

277 APPENDIX I I . CONSTITUTION whereby the Most Holy Lord commands concerning the sacred vessels of the Most Eminent Cardinals and other ecclesiastical dignitaries deceased from this life. Before we present this Constitution, it is fitting to recall certain matters from the juridico-ecclesiastical history concerning the testaments of clerics. It has been established that in former centuries of the Church, it was forbidden for clerics to make testaments concerning goods acquired from ecclesiastical revenues. Concerning this matter, the ancient documents of the canons are quite clear. In the canons which come under the title of the Apostles, Canon 40 states: "Let the proper possessions of the Bishop be manifest, if indeed he has any proper possessions, and let the ecclesiastical possessions be manifest, so that the Bishop, dying, may have the power to bequeath his

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proper possessions to whomever he wishes; lest, under the pretext of ecclesiastical matters, which are proven to belong to the Bishop, [others] intervene... and it is just before God and men that neither the Church should suffer detriment from the ignorance of the Bishop's affairs, nor should the Bishop or his relatives be proscribed under the pretext of the Church, and those who belong to him should not be involved in lawsuits, and his death should not be stained with injuries." These very words were repeated by the Fathers of the Council of Antioch, held in the year 332, in Canon 24. At that time, the revenues of the Church generally consisted of first fruits, tithes, and oblations, of which much is said in the ancient documents. This discipline concerning goods acquired by the Church, which were not to be bequeathed, remained in force for many centuries, and it was revived by the Council of Xanten under Alexander II. In Canon 15, it is stated: "Wishing to provide for the integrity of the churches, whether [the cleric] dies intestate or wishes to bequeath [goods] to others, we decree that these same goods should remain with the churches." This sanction was more clearly explained by the same Alexander II in chapter 12 concerning testaments, in which he decreed: "Because we have decreed in the Council of Xanten that goods acquired by the Church should devolve to it upon the death of clerics, there is doubt as to whether this applies only to immovable property or to movable property. We answer that, generally, any goods acquired by the Church should, according to the Council of Xanten, remain with it after the death of the acquirer; and after that: But those which come from inheritance or from art or from teaching, are to be distributed according to the will of the deceased. Because some, in various churches, possess benefices, these should be divided among them according to a proper estimation." However, the same Alexander II, in the aforementioned chapter, did not disapprove of the custom of making testaments in favor of pious causes; thus he said: "Although movable goods acquired by the Church..."

[*Latin ed. p. 278*]

27S AppEi •IX n. It is decreed that, by law, certain rights and privileges pertaining to the deceased cannot be transferred to others, and that while the aforementioned regulations are legitimate, or are based on custom, they are not to be condemned, but rather should be understood in relation to the poor and religious institutions. "Regarding this decree, mention is made of those who had served the living, whether they are relatives or others, who, according to the merit of their service, shall receive [something]. " It was also decreed in the Council of Constance, in the year 1417, session 39, that "Prelates, and others of this kind, should not deny to the dying the faculty, which they possessed while living, of disposing of ecclesiastical goods for pious purposes, and we forbid that such transactions be made in a form contrary to the law." The Constitution of Boniface VIII, Pope, which begins with the word "Praesenti," was issued on this matter, and it was hoped

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that this discipline would endure in its full force. "However, if a privilege or custom had allowed Bishops, and other superiors, to benefit from the goods of the clergy, or for some other reasonable cause, it was deemed more appropriate that the Apostolic See's treasury, for the needs of the entire Church, should receive such goods, whether they belonged to the clergy or to religious institutions, rather than that the episcopal treasury should receive them; perhaps following the example of certain monasteries, in which the goods of the deceased were inherited by the Abbot. However, this was considered an abuse, unless it was supported by a legitimate privilege or custom, as Boniface VIII stated in chapter 9 of the "Officium Ordinarii" in the following words: "By the present decree, we forbid that any Bishop, or his superiors, or Abbots, or any other regular or secular prelates, or ecclesiastical persons, who are subject to them... should occupy or convert to their own use the goods [of the deceased] found in their possession... in any way whatsoever: unless..." Furthermore, this practice led to the introduction of certain new procedures, such as the fact that the goods of the clergy, upon their death, were sometimes found to belong to Bishops, or other superiors, and that these individuals were not always able to leave bequests for pious causes according to the customs of the place, or that they did not leave bequests for such causes in their churches, but rather that the episcopal treasury would inherit them; perhaps following the example of certain monasteries, in which the goods of the deceased were inherited by the Abbot. However, these rights of the Apostolic See were confirmed by many decrees of the Holy Pontiffs, and underwent many changes. Certain abuses arose, which were addressed by those who had been appointed as collectors and sub-collectors, and which were condemned by St. Pius V in the Constitution, which begins with the words "Romani Pontificis," in the year 1567, in which he decreed that "no Patriarch, Archbishop, Bishop, or Abbot, or Commendatory, or others holding ecclesiastical benefices, should demand from those who are subject to them... any obsequies or other suitable contributions or assistance for the benefit of individual churches..."

[*Latin ed. p. 279*]

"Moreover, it sometimes happens that, under the pretext of legacies, they stir up disturbances, and therefore, if we know that there is any ambiguity in their testimonies, which they present to the Apostolic See, we readily devote our efforts to resolving it, in order to safeguard, with all due care, the sacred objects and vessels, ornaments, ecclesiastical vestments, and other things dedicated to the divine cult, which are sometimes acquired by them from ecclesiastical revenues, or from churches, monasteries, and benefices, over which they have presided, or from which they have received ecclesiastical revenues and stipends, as it would be fitting and proper, but in other cases, they are even bequeathed to the ungodly, and sometimes to close

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relatives; and the Apostolic Chamber, under the pretext that these come under the appellation of *Spolia*, does not hesitate to demand and seize them..." And then it states: "It is customary for the Holy See to grant to Cardinals of the Holy Roman Church, by Apostolic letters in the form of a Brief, beginning with the words 'De benignitate Sedis Apostolicae,' or by other similar letters in the form of a Brief, beginning with the words 'Cum fel. rec. Urbani VIII,' the faculty of disposing of sacred vessels belonging to any church, or chapel, or place of devotion, notwithstanding the Constitution of Urban VIII, issued on July 21, 1642, by which sacred vessels of Cardinals are attributed to the pontifical sacrifice. But in the aforementioned Brief, even when it concerns Archbishops and Abbots from whom the use of these things has been customarily ceded, a clause is added: 'Saving, in the premises, the definitions...' And furthermore, it is declared that 'domestic furnishings of Presbyters are not to be included' under the name of *Spolia*, which the Apostolic Chamber ought to consider."

With this historical and legal explanation as a preface, the aforementioned Constitution, which follows, is better understood.

PIUS, POPE IX. For the perpetual remembrance of the matter.

I. "Since it is of the greatest importance that there be no room for doubt in Apostolic concessions, which might cause anxiety and disputes, and since, in the title, administration, or disposition of the Constitution *Fel. Rec. Pii PP. V.*, issued in the year 1567 on the third day before the Kalends of September, in the second year, doubts have frequently arisen concerning the interpretation and force of such reservations, especially since in the aforementioned Brief, 'De benignitate Sedis Apostolicae,' of the same Pope Pius V, in that part which concerns sacred vessels..."

[*Latin ed. p. 280*]

280. It appears, and it is openly stated, that [certain provisions] are derogated. For, indeed, the Roman Pontiffs are accustomed to grant to Cardinals, as well as to Archbishops, Bishops, and Abbots, the privilege of disposing of sacred vessels. It would be futile and illusory, therefore, if a clause were added which would have the force that the preceding words suggest. Furthermore, some interpreters of sacred canons teach that Cardinals, insofar as they are not specifically named in the aforementioned Constitution of St. Pius V, are in no way subject to that law, although others maintain the opposite opinion.

2. "Given these circumstances, our venerable brother, Peter, Cardinal of Ostia, now Bishop of Albano, who at that time governed the episcopal church in A [sinam], earnestly requested our predecessor, the blessed Pope Gregory XVI, to define the matter with certainty and to expressly declare whether Cardinals, Bishops, or Abbots of the aforementioned "Nullius" dioceses, mentioned in the Constitution of our predecessor, St. Pius V, are included therein, and to determine which sacred ornaments, and furnish-

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ings, and vessels belong to the Holy Roman Church of the Cardinals for the pontifical sacristy, according to the aforementioned Constitution of Urban VIII, and which belong to Patriarchs, Archbishops, Bishops, and Abbots of "Nullius" dioceses, whether they possess or lack the dignity of Cardinal, and whether they are subject to the aforementioned Constitution of St. Pius V concerning cathedral churches. Furthermore, he requested that a determination be made as to how the division of sacred furnishings and vessels should be made when a Bishop governs, successively or simultaneously, more than one church.

3. "We, therefore, who have succeeded our aforementioned predecessor, the blessed Pope Gregory XVI, although unworthy, have been moved, with the advice of our Most Reverend Fathers, the Cardinals, and after consultations with the superiors of Bishops and Regular Canons, to eliminate all causes of doubt and controversy concerning this matter. Therefore, with our Apostolic authority, we decree and command the following:

I. Cardinals who are Bishops are subject to the law established in the Constitution of St. Pius V, beginning with "Romani Pontifices," except for Cardinals who are Bishops of the suburbicarian dioceses, and also except for Cardinals who are Abbots of "Nullius" dioceses, who reside in the Roman curia, whose sacred vessels, according to the aforementioned Constitution of Urban VIII, belong to the pontifical sacristy.

II. While the derogatory clauses of the Constitution of St. Pius V, beginning with "Romani Pontifices," which are customarily added in the introductory formulas of the Breviaries, in the "De benignitate Sedis Apostolicae" Breviary, are maintained, in the Breviary that begins with "Cum fel. rec. Urbanus VIII," the clause by which the aforementioned Constitution is preserved is removed, and in its place are substituted the following: "Whether the churches are abbatial, cathedral, metropolitan, patriarchal, or of any other kind, by concession..."

[*Latin ed. p. 281*]

We earnestly exhort you, that if you have obtained, either through Apostolic dispensation, administration, or endowment, that you, as Our Predecessor Benedict XIV already urged in his Constitution beginning "Inter arduas," that in arranging these matters, you keep the interests of the churches before you, and those of others. And that which We have prescribed in this article, We extend to all Cardinals who, before the publication of these present letters, have obtained the faculty of testing and disposing of such matters, as if it were expressly stated in their respective grants.

The sacred vessels which, by virtue of the Constitution of St. Pius V, beginning "Romani Pontificis," are due to cathedral churches, We decree to be: namely, mitres, planetas, pluvialia, tunicellas, dalmáticas, sandalia, chirothecas, albas cum cingulis, lineos amictus, and similar items; also, missals, graduals, books of chants and music, pontifical books, one of

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which should have the title "Canon Missae"; also, chalices, patens, píxides, ostensoria, thuribles, a vessel for holy water with an aspergillum, a basin with an ewer, vessels for the sacred oils, and ewers together with basins, and a tintinnabulum, palmatorias, icons of peace, archiepiscopal crosses, candelabra with a cross for use at the altar, a pastoral staff, a faldstool, and other sacred objects, or vestments, or ornaments, or vessels, if any are also, by their nature, suitable for liturgical use; provided that they have not been destined, accidentally, but permanently, for divine worship and sacred functions; except for pectoral rings and crosses, even with sacred relics, and all other items of any kind which have legitimately been proven to have been purchased by deceased Bishops from goods not belonging to the Church, and it is not known that they were given to the Church.

Therefore, it is to be held, and Bishops are to make, in authentic form, an inventory of the sacred vessels, in which, for the sake of truth, they shall state when they were acquired, and they shall specially describe which were purchased from the revenues and income of the church, so that it may not be presumed that all were purchased from the revenues of the church.

As for the sacred vessels of the Sacred Roman Church, belonging to the sacristy of the supreme pontiff, We wish to have no account taken of the quality and nature of the revenues with which they were purchased, and, besides those which are specifically enumerated in the Constitution of Urban VIII, beginning "Aequum est," We understand that other items are mentioned only in general terms: sandalia, chirothecas, lineos amictus, albas cum cingulis, also, píxides, ostensoria, a vessel for holy water with an aspergillum, vessels for the sacred oils, and ewers with basins, and a tintinnabulum, finally, a pastoral staff, a faldstool, palmatorias, icons of peace, a thurible, and similar items, except for...

[*Latin ed. p. 282*]

282. To the Dioceses and to the Chapters, and also to the Cathedrals, the sacred relics shall pertain, even those pertaining to the pectoral crosses. I. When a Diocese, from which its Ordinary has successively acquired two, or more, churches, shall possess sacred vessels. We wish, and We command, that these vessels be divided in a proportional manner, decreeing that these letters shall be firm and efficacious, and that the revenues and temporal goods of the cathedrals, existing and to come, shall be distributed according to their full measure, in accordance with the constitution of Saint Pius V., and that they shall obtain what is due to them, according to the will of the "Roman Pontiff." V. To whom they pertain, or shall pertain, namely, if any Bishop simultaneously and most fully administers; so that in this case, two, or more, churches, whether judged by any judges, or perpetually, shall be administered – concessions which must be declared and defined, and whatever is contrary to this, by anyone, knowingly or unknowingly, shall be considered void and of no effect, and We command that atten-

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tion be given to the equal distribution of sacred vessels to each cathedral church. VI. Nevertheless, if it should happen, by Our authority, that the "Apostolic Chancery Rule concerning acquired rights" is not revoked, and that other Apostolic, and universal, provincial, and synodal councils, and also special and particular constitutions, and ordinances, are not observed, and that, in particular, and individually, those who act to the contrary are not mentioned and exempted, We wish that the revenues of the cathedral churches be distributed proportionally according to their fruits. VII. If it is established that the Bishop, through the transfer of two churches, has appropriated to himself all the sacred vessels belonging only to one church, there shall be no division, but the same sacred vessels shall pertain to the church to which they originally belonged.

Given at Rome, near the Holy Mary the Greater, under the seal of the Fisherman, on the 1st day of June, 1747.

Pius Pontifex nostri anno primo.

Aloisius Card. Lambruschini,

Per Brevia Apostolica.

[*Latin ed. p. 283*]

283 APPENDIX I. II. TWO DOCUMENTS ARE REFERRED TO, WHICH ARE INDICATED IN THE ACTS OF THE HOLY SEE CONCERNING THE LOUVAIN QUESTIONS. In the acts of the Holy See concerning the Louvain questions, the series of which we presented in the preceding volume, mention is made of a certain letter from four distinguished professors in the renowned Catholic University of Cattolica, addressed to Cardinal De Andrea, who at that time presided over the Sacred Congregation of the Index. This letter, which the Holy See judged to be imbued with the same doctrines that it had condemned in the works of Ubaghs concerning the natural power of human reason, as is specifically stated in the document we cited on page 222, follows: "Most Eminent Prince: Since nothing should be more important to Catholics than to conform their opinions to the mind of the Apostolic See, we, the undersigned, professors in the Catholic University of Cattolica, have considered it necessary to submit to the judgment of the Sacred Congregation of the Index the controversy that is currently being debated in our Belgium concerning the natural power of human reason; and it would be to us a great favor, Most Eminent Prince, if the Sacred Congregation would deign to respond to certain questions that pertain to the present controversy. Before we present these questions, we feel it is permissible for us to say a few things. " As you know, Most Eminent Prince, the rationalists, with great effort and study, seek to uproot divine revelation, and they claim that all truths, especially those from which natural religion is established, flow from a certain source, namely, from the absolute and entirely independent power of the human mind, and, as they say, spontaneously. Therefore, they assert that the first men, at the beginning, lived

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like wild sheep in the forest, but gradually and little by little, through the sole power of reason spontaneously developing, they evolved, discovered language, and established civil society, and finally, devised and instituted a certain form of religion. Furthermore, they teach that this first religion, being plainly crude and imperfect, was nothing other than a certain, as they say, gross form of fetichism, which was subsequently perfected by men, just as letters, arts, sciences, or any other human invention, were perfected through thought and reasoning. From this, they recall that various forms of polytheism appeared among the Indians, Egyptians, Greeks, and other ancient peoples, which, with the passage of time...

[*Latin ed. p. 284*]

284. "But, having escaped the snares of perpetual imperfection," these men, who are like steps, have become a source of intellectual assistance, by which man has attained that higher form of religion, which is called Christian, and which many of the most distinguished Catholic apologists today are striving to achieve. But while they subscribe to this, some writers from Galliae, whom they call traditionalists, have twisted our most sacred religion into a perverse meaning, for the sake of a certain human conceit, and therefore, they subject it to the judgment and dominion of human reason, and they declare that the same is continuously and necessarily progressing, day by day, through a certain divine gift; and they seem to consider the human mind to be a mere passive faculty or virtue, teaching that the idea and knowledge of the first truths is derived solely from external sources.

"But this," Most Eminent Prince, "is the theory that, under the deceptive name of continuous progress, is being taught today in various schools of the ungodly; and from this doctrine, like a certain pestilence, spreads far and wide, and we learn from the testimony of others.

"In refutation of this impious and pernicious doctrine, many of the most learned Catholic apologists immediately deny that the testimony of divine revelation, preserved through continuous tradition and spread to all peoples, should be considered the sole source and the absolute principle of knowledge of the truths of natural religion. And there are also some who have not hesitated to assert that man, as he is born, cannot attain to those truths of natural order, such as the existence of God and the immortality of the human soul, unless he first adheres to the faith of divine revelation; and they have presented arguments contrary to their own opinion, resembling the errors of the rationalists and the semi-Pelagians.

"This doctrine of the traditionalists, the professors of Louvain, both in their lectures and..."

[*Latin ed. p. 285*]

Moreover, in various of his writings, both the Most Reverend Fathers of the Index and others have repeatedly condemned this [traditionalist]

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doctrine; and they often point out, with good reason, that this declaration, which claims to prove the existence of God through the certainty of human reason, contains the following flaws:

1.° According to this [traditionalist] doctrine, it seems to claim that the existence of God can be proven with absolute certainty through the natural reason of man. Faith, however, is not meant to prove the existence of God, but rather to accept it as a revealed truth. This doctrine thus blurs the essential distinction between faith and reason. Furthermore, as the Most Reverend Fathers of the Index have pointed out, the use of reason, far from hindering faith and the freedom of the soul, actually precedes it and, therefore, is perfectly compatible with the spiritual freedom of the soul and is contrary to fatalism. Moreover, it seems to follow from this doctrine that man, through the revelation and grace of God, is led to the knowledge of truths of the natural order.

2.° It seems to follow from this same doctrine that supernatural revelation is absolutely necessary for the knowledge of the truths of the natural order. However, this contradicts the common opinion of theologians, who hold that the natural light of reason is sufficient for man to attain the knowledge of moral truths; and therefore, this doctrine seems to come closer to the errors of Baius, Calvin, etc., who taught that, after the fall of man, the powers of reason are so weakened that, with regard to moral truths, they are completely extinguished. However, we have already shown that this is not the case.

3.° It is also clear from Holy Scripture and the common consensus of the Fathers and theologians that man, using his reason, possesses the natural light of reason, without any supernatural revelation or assistance from grace, and can know and even demonstrate many metaphysical and moral truths, among which are the existence of God and the immortality of the soul.

The professors of Louvain also rightly point out that, in order that faith may not be shaken, it must be understood that there are certain preconditions for faith, which are naturally known; and that, in order for a man endowed with this mind to make proper use of reason, he must have some external aid.

[*Latin ed. p. 286*]

286. Furthermore, with intellectual assistance. Therefore, we believe that, unless it truly possesses it, man can, through his own and sole rational principles, discover and comprehend many truths, both metaphysical and moral, which God has implanted in the human mind. Moreover, we note that institution, although we say that it should not be considered as the efficient cause by which man comes to the expeditious use of his reason, but rather as a mere condition without which he cannot attain that expeditious use to which he must compare any intellectual understanding;

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for, for example, air, heat, and moisture are required as conditions without which life cannot be manifested, which truly exists in some grain of seed, but is hidden and latent. We speak here of true knowledge, that is, of acquiring a clear and certain understanding of these truths. By institution, we understand any external intellectual aid, whether it be through teaching, or through diligent study, or through any other means by which social intercourse provides assistance, whether by word, or by writing, or by gesture, or by any other means. We understand by absolute need, not that we believe that God could not have created man otherwise, but that we believe that this need is common to all men, as they are now born. This absolute need for institution does not, however, abolish the spontaneity of human reason, as some claim; rather, we affirm that it does not remove it at all, but rather preserves it entirely and allows it to remain with its full internal power. And we can argue against the rationalists from our doctrine as follows: If man, as the rationalists teach, is originally in this world in a state of ignorance, because he lacks the institution, then he cannot know anything about the natural order.

[*Latin ed. p. 287*]

287. Had the absolute power of reason been established, it would have been devoted to the most sound doctrines. And it is certain that, without divine intervention, it could never have arrived at the same conclusion by its own strength alone; nor has it ever been taught or expounded in many seminaries and other Catholic schools (given the same condition as now) without divine intervention, whatever way that intervention may be conceived.

"But now, having expounded our opinion on this matter, we humbly request that it may be permitted us, Most Eminent Prince, to submit the following propositions of the Holy Index for your judgment:

1.° Whether it is permissible for Catholic authors, in a purely philosophical discussion concerning the power of human reason, to teach that God could have, indeed, created man in such a way that he, by the sole power and aid of his own reason, and without any external intellectual assistance whatsoever, would have attained the full use of reason, as it is now understood.

"Furthermore, we believe that our opinion on this matter should be considered among those questions which are freely debated by Catholic philosophers. However, the Reverend Lupus, canon of Liège, in his work entitled *Le traditionalisme et le rationalisme examinés au point de vue des vérités de doctrine catholique*, does not hesitate to assert that our opinion, or doctrine, is an error of philosophy and theology, and that it is closely connected with the perverted doctrines of Baius and Calvin, and that it openly contradicts the doctrine of the Catholic Church, of Holy Scripture, and the common opinion of the Fathers and theologians.

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These accusations, which were recently published in Belgium and widely disseminated, and which were approved by the Reverend Father Perrone, state:

"Do those authors know that the opinion which they so unjustly criticize is not only defended by many Catholic and learned men, not only in Belgium, but also in France, in Germany, and in Italy; that it is considered true by not a few bishops, and by many theologians and philosophers, and by the Apostolic See itself, and by the unanimous opinion of the Fathers and theologians?"

[*Latin ed. p. 288*]

288 Do these opinions, definitions of the Church, and propositions of the Sacred Congregation of Indices contradict each other? 3.° Does the Calvinist interpretation hold, that the words of the Apostle (Romans 1, 19-20) should be understood as referring to men joined together in the society of life, and possessing the full use of reason, as seems to be the case from the entire context of the passage? 4.° Is it permissible to reprehend and unjustly criticize Catholic authors who assert, in a similar sense, that is, concerning men possessing the full use of reason, that the proposition of the Sacred Congregation of Indices, namely, that "Reason can certainly prove the existence of God, the spirituality of the soul, and the liberty of man," should be understood?

It remains, Most Eminent Prince, that, appreciating all the best things that Your Eminence offers, we should bring our writing to a close, with the humble hope that you will deign to embrace us with your most benevolent regard.

Given at Louvain, on the Kalends of February, 1860.

J. Th. BEELEN,

S. S. of the Court of Pope Pius IX,
in honor of the Sacred Scriptures and Oriental languages,
Professor.

J. B. LEFEBVE,

Professor of Dogmatic Theology.

G. C. UBAGHS,

Professor of Philosophy.

N. J. LAFORET,

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Professor of Philosophy.

This letter was not presented to the Sacred Congregation of Indices, but the aforementioned Cardinal De Andrea wrongly added the following response in his own name, of which mention is made in the attached documents, pages 211 and 213.

The Prefect and Clarissimus Professors: "Having received your letters, which you gave me on the Kalends of February of this year, I entrusted them to certain learned and erudite theologians, Consultors of this Sacred Congregation, so that they might diligently consider and examine the doctrine concerning the natural power of human reason, which you clearly explained in those same letters, and which is taught by Professors in the esteemed University of Louvain. These theologians, together with a Reverend Father from the Secretariat, having previously carefully and thoroughly considered the matter, unanimously agreed with us, as follows:

1.° This doctrine does not in any way contradict the four propositions which were recently published by this Sacred Congregation concerning the natural power of human reason.

2.° It is rightly to be considered among those questions which Catholic philosophers may freely discuss on both sides; and therefore,

3.° With regard to this doctrine, it is necessary to adhere to the Constitution of Pope Benedict XIV, *Mirabilis Meditatio*, which begins: "Sollicita et provida..."

I gladly communicate this opinion to you, Eminent Professors, and I sincerely congratulate you on your most sincere devotion to the Apostolic See, which is indeed the pillar and foundation of truth.

Rome, the day before the Kalends of March, in the year 1860.

L. & S.

Hieronymus Cardinal De Andrea,

Prefect of the Sacred Congregation of Indices.

Followed by the subscription of the Secretary.

[*Latin ed. p. 289*]

289 IN THE ACTS OF THE CONSISTORY. THE MOST HOLY LORD, OUR HOLY FATHER, POPE PIUS IX, ADDRESS GIVEN ON THE TENTH DAY OF DECEMBER, 1867, IN SECRET CONSISTORY. Venerable Brothers: "God, who is rich in mercy, comforts us in all our tribulations, and mingles joy with sorrowful events. Venerable Brothers, that you may always hope in Him, and not be deterred by difficulties, let us persevere with even greater zeal in the path of justice, and boldly defend the holy cause of His Church, and devote all our strength to fulfilling the duties of Our Apostolic ministry. Indeed, all can see how the most merciful Lord deigns to manifest the signs of His divine goodness, even amidst the most grievous calamities by which the Church is afflicted everywhere in this time of great injustice, and by

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which this Apostolic See is oppressed, and amidst the many dangers that surround us on all sides. And while Satan, and his satellites and children, do not cease to rage and act with the most terrible methods against our divine religion, against Us, and against this Chair of Peter, and while they strive to alienate the people of unhappy Italy, who for the most part are most devoted to Us, the merciful and compassionate Lord is present to His Church, He is present to Us, and He assists with His almighty power. For, Venerable Brothers, all the Sacred Prelates of the Catholic world are bound to Us and to this Holy See by the closest bonds of faith and charity..."

[*Latin ed. p. 290*]

290 FROM THE CONSISTORY ACTS. Those bound to the Holy See with unwavering devotion, and feeling this very thing, do not cease to defend the cause of the Catholic faith, with voice and with writing, and to assist Us, and this Apostolic See, with every effort. And even laymen, in large and public gatherings throughout Europe, raise their voices for the Catholic Church, and for the protection of the rights of this Holy See, and for the vindication of Our civil authority, and the principate of the same See. For the sake of this same civil authority, in Paris, especially in the Senate and in the College of Legislators, it has recently been splendidly and magnificently defended with almost unanimous votes and opinions, to the applause and rejoicing of all good men. But the Catholic people, vehemently detesting the perfidy of our enemies, rejoice to declare their filial piety and veneration towards Us, and this Holy See, with public and splendid demonstrations, and to alleviate Our and the same See's needs with continuous alms, and the faithful of both sexes, even if poor, offer Us their resources. And there are among the clergy and laity, distinguished writers who, with their works, and eloquent speakers who, with their sermons, in public gatherings also, glory in diligently, wisely defending the venerable and unshakeable rights of justice, truth, and this Apostolic See, and in refuting the falsehoods of adversaries. Moreover, many men, even of noble birth, from almost all regions, spurred by the cause of religion, hasten to this city, leaving behind their own families, and even their wives and children, eager to give their service to Our cause, and without hesitation, to pour out their very lives for the defense of the Church, for Us, and for the defense of Our civil authority and the principate of this Holy See. And there are not lacking Catholic parents who, inflamed by the spirit of religion, send their own sons, even their only sons, to defend the cause of this Holy See, and, emulating the illustrious mother of the Maccabees, they glory in the fact that they have shed their blood for this cause, and rejoice. Furthermore, the people subject to Our civil jurisdiction, although provoked by every kind of treacherous plots, threats, and damages by the most wicked men, nevertheless remain steadfast and unwavering in their faith towards Us, and this Holy See. Among these, certainly, the Roman

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people stand out, deeply beloved by Us, with the highest...

[*Latin ed. p. 291*]

FROM THE ACTS OF THE CONSISTORY. That he may be worthy of praise, since almost all the citizens of this illustrious city, of every order, rank, and condition, show a singular affection and obedience to Us, and obey Our civil and ecclesiastical authority, and render Us the utmost assistance; and We know, Venerable Brothers, that Our soldiers excel in every way in fidelity, and are certainly worthy of all praise, and with what admirable courage they fought against the hordes of the most wicked men, and with what glory they met death in battle for the Church. And you know well that the Most Serene and Most Powerful Emperor of the noble and generous Gallic nation, considering the grave dangers, has sent his valiant soldiers, who, with their most excellent leaders, with all eagerness and zeal, especially in Nomentano and Eretino, are ready to help Our soldiers, and to fight bravely with them, and to seek death for this Holy See with the highest honor of their name. And you are not ignorant of how, especially in the regions of the sacred expeditions, with God's help, the divine light of the Gospel shines more and more every day, and how our most holy religion receives greater and greater growth, and how those who sit in darkness and the shadow of death, with the darkness of their minds dispelled, flee to the bosom of the Holy Mother Church, and how everywhere pious institutions and Christian works, and those most useful to the classes and needs of civil society, are increased every day. "All these things, which We have briefly mentioned, and the manifold plots of wicked men, have been miraculously detected and thwarted, clearly showing how the Almighty and merciful Lord, in whose hand are the hearts of men, wonderfully protects, defends, and manifestly strengthens His Church, so that the gates of hell will never prevail against it, and that He Himself is with us all days until the consummation of the age. Therefore, Venerable Brothers, let us always give thanks to the most merciful Father of mercies for the benefits received, and placing all our hope and trust in Him alone, let us not cease to fervently implore Him, that through the merits of His only-begotten Son, Our Lord Jesus Christ, He may continue to deliver His Church from all calamities, and to deliver us from our enemies, and from His enemies, and to confound and frustrate their wicked designs and desires. And let us also beseech Him to...

[*Latin ed. p. 292*]

292 FROM THE CONSISTORY ACTS. We are moved to pray that He, Who is merciful, may deign to bring those enemies, and even those who, fighting against Us, have been surrendered to the power of Our soldiers, treated with all charity by Us, to salutary repentance, and to the right path of justice. But that God may more readily grant our prayers, let us continu-

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ally invoke before Him first the Immaculate Virgin Mary, who is the most loving Mother of all of us, and the most powerful help of Christians, who finds whatever she seeks, and cannot be frustrated; then, let us invoke the Blessed Peter, Prince of the Apostles, and his co-apostle Paul, and all the Saints in Heaven, who reign with Christ in Heaven. Before we bring this discourse to an end, We cannot refrain from paying tribute to those, and to each one, who, with the greatest merit, deserve the highest praise, and to whom We, with grateful hearts, express our gratitude for those who, whether by word, or by writing, or by support, or by any other means, and even at the risk of their own lives, strive so valiantly to defend Our cause, and that of this Holy See, and of the Church. And We do not omit, in all our prayers and supplications, with thanksgiving to God, from Whom all good things come, and every perfect gift descends, to humbly and earnestly beseech Him that He may abundantly bestow upon all these, who are Our most beloved children of the Church, and the most zealous defenders of the same Church, the richest gifts of His divine grace, and all His heavenly blessings.

[*Latin ed. p. 293*]

298 FROM S, THE CONGREGATION OF THE COUNCIL. REGARDING NOMINATION OR DISPENSATION. May 25, 1867. Session 24, paragraph 12, and Session 25, paragraph 9, concerning the "Referendum Compendium." In the island of Gaudi, there was a distinguished collegiate church, which was recently elevated to the status of a cathedral by the Most Holy Lord, through Apostolic Letters dated September 14, 1864. The pious founder, named Basil, had added two canonical benefices to this collegiate church in the year 1746, and for each benefice, he established distinct and appropriate laws. Concerning the benefice in question, he decreed: that the right of presenting candidates should belong to Basil, the founder, as long as he lived; and upon his death... to the eldest male or female descendant of the former Catherine, the widow of Francis Bugeia. This pertains to the active right of patronage; concerning the passive right, he decreed: that the presentation could be made in the person of a minor, and of one of lesser age, provided that he or she is of the age of twelve years, and is either a native or a descendant of natives of this island of Gaudi... and that they must be descendants of Catherine Velia Bugeia, if they are suitable... they should always be preferred, with the closest degree of consanguinity to the aforementioned Catherine... if, however, several candidates should appear with equal merit during a vacancy, in that case, it is permissible for the aforementioned patrons to choose one who is pleasing to them... such a canonry and benefice shall forever retain the nature of a lay right of patronage, even if the right of nomination and presentation should pass to ecclesiastical persons, or pious institutions (1). The aforementioned Catherine had four children, namely, John, Anne,

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Joseph, and Clara. In the present vacancy of a canonical benefice, a certain Rose, a descendant of the line of John, presented her nephew, who was thirteen years old and not yet invested, as the eldest in the entire lineage of Catherine, through her son Salvatore. As we wrote on page 233, paragraph II.

[*Latin ed. p. 294*]

294. OF NOMINATION OR DISPENSATION. Concerning this matter: a certain John, as the eldest by birth from the line of Anne, and also a certain Joseph, as the eldest by birth from the line of Joseph, presented themselves to the Priest Joseph, who, through the line of Clara, descended from the aforementioned Catherine, but appeared to be of a more distant degree than the Savior. After these two were presented, a certain cleric named Francis, with his own name, offered prayers to the Episcopal Curia, claiming descent from Catherine, and reserved his rights to obtain the Benefice. The first presented, namely the Savior, offered prayers, somewhat hesitant about his suitability, so that, although he could not strictly by canonical law obtain the Benefice, it might be granted to him by canonical equity, since the canonical causes were lacking. After these prayers were presented in the usual manner to the Bishop for information and a vote, and after hearing those whose interests were involved regarding the outcome, the second presented, the Priest Joseph, withdrew his petition, the hearing of which would have been to his detriment; the third, namely the cleric Francis, protested against the actions of any of those present, claiming that he had not been heard. However, after the Bishop had explained the history of the matter, he noted several things, namely: that the collegiate church, having been elevated to the honor of a cathedral church, the Benefice seemed to fall under the Tridentine disposition of Session 24, chapter 12, concerning reforms, although in our case, even those of lesser age had been called to it; moreover, that the Benefices of the same church were, by their original constitution, all presbyteral, and the celebration of the Conventual Mass was carried out in turn; therefore, he felt that a dispensation should be granted to the supplicant Savior, concerning the deficiency of age, as the Holy Congregation had declared in similar cases, and specifically in Balneoregion on June 21, 1760, and in another decree in Balneoregion on January 14, 1764, and in Pergulana on December 20, 1854. However, several reasons seemed to warrant granting this dispensation, namely: almost no detriment to the divine worship, since the Chapter consisted of twenty-four individuals who served the choir in turn; the explicit intention of the founder, who called even those of lesser age than is proper to the Canonry; the fervent and persistent prayers of the Patron; and the virtues of the Savior, who is

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both an orphan and...

[*Latin ed. p. 295*]

NOMINATION OR DISPENSATION. 295. It would be the best hope for the young man: indeed, the words of the Roman Pontiff, who, in the erection of the cathedral, wished to preserve all the rights of the Patrons, both visible and hidden. And furthermore, he noted that, whenever the prayers of the Savior were heard among others, it was not necessary to observe the provisions prescribed in other cases, as in Pergulano, on December 20, 1851, namely, that an ecclesiastical administrator should be appointed who, after fulfilling his duties, would provide the revenues of the Canonry for the benefit of the Savior, so that he might be educated in the Seminary until the age of 21 years, and that the same should be admitted to the possession of the Canonry until he was initiated in the sacred rites. And he added that this was the wish of the Chapter. With these considerations in mind, as is customary, a decree was issued to the effect that the parties should be given a deadline to present their rights before the Holy Congregation, which Salvator and Joseph, lawyers in the City, duly did.

A SYNOPTIC DISCUSSION: DEFENSE OF THE SAVIOR REGARDING THE FIRST DOUBT. — The lawyer argued that, from the entire lineage descended from Catherine, only Rosa, being the eldest, had the right to present herself, since the Founder had decreed that, whenever a vacancy occurred, the nomination should belong to the eldest male or female among the children, grandchildren, descendants, and so on, of Catherine: but in fact, it was established that Rosa was the eldest among all the descendants; and that the Savior, being closer in degree to Catherine than the others, should be presented; and indeed, even if others were found in the same degree, with only one Patron, namely the eldest among the entire lineage, it would have been permissible for him to present himself in preference to the others. Furthermore, he argued that the change in status, whereby the collegiate church became a cathedral, did not constitute an obstacle, as if it were opposed to the Tridentine law, session 24, de Refor., chapter 12, which states: "In all cathedral churches, all canons shall have attached to them the order of Presbyter, Deacon, or Subdeacon." For such a change in status does not abolish the rights of the patrons, since it does not destroy those things which are considered compatible with the new status of the church.

[*Latin ed. p. 296*]

296 OF NOMINATION OR DISPENSATION. Other authorities, such as Cardinal De Luca in *De Canon*, chapter 6, paragraph 5, and in *De Iure Patronat*, chapter 66, paragraphs 11 and 12, state: "If the establishment is made in a collegiate or cathedral church, the patron's rights are not prejudiced, and consequently, he retains the right of presentation to the

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canonry, in the same way that he previously had the right to present one or more rectors or beneficed persons." This is also supported by *Seraph.*, decision 1444, and *Buratt*, decisions 162, paragraphs 30 and 31. Moreover, not only have the patrons not renounced this right of nominating a young person, but they have also exercised that right at a time when it would have been opposed by the law of Trent, chapter 12, session 24, concerning reforms, which states: "The Holy Synod also urges that in provinces where it can be conveniently done, all dignities and at least half of the canonries in cathedral churches and collegiate churches be conferred only on masters or doctors, or even licentiates in theology or canon law." This is not surprising, since it is permissible for founders to impose conditions at the time of the foundation, even against the law. In the present case, moreover, the orator testified to the strong support of the patrons, as the bulls of erection, by which a distinguished collegiate church was transformed into a cathedral, expressly preserved the rights of the patrons: "For," the Pope states, "we confirm and order that the foundations and patronages of other canonries and benefices be observed."

REGARDING THE SECOND POINT.—Even if the aforementioned rights were to be considered an obstacle to the admission of Salvator to the canonical institution, the orator maintained that it could be granted through a dispensation. To support this, he cited the example of the case of Balneoregion, of June 21, 1760; and this example, since it concerned a more difficult case, seemed to allow for a stronger conclusion in favor of Salvator: for in Balneoregion, the law of the foundation granted the patrons the power to present simply a suitable person; but a young person of ten years of age was presented. In the present case, however, the law of the foundation granted the patrons the power to nominate even a young person of twelve years of age, and Salvator, who was thirteen years old, was presented, having fulfilled all the other conditions stipulated by the founder. After presenting these and other examples of such dispensations, the orator recalled that principle which rests with the Holy Synod.

[*Latin ed. p. 297*]

NOMINATION OR DISPENSATION. 297. It is received by the Congregation that, if among several nominees there is someone who is ineligible, but who possesses a greater right before others, it is not considered an injustice to the others if this person is made eligible by an Apostolic dispensation; for natural aptitude and aptitude that arises through dispensation are considered equally valid (1).

DEFENSE OF FATHER JOSEPH REGARDING THE FIRST DOUBT. — Father Joseph, at the beginning, maintained that the right of patronage concerning which we are speaking is a lineal right, so that all those who, in each line descending from Catherine, are of greater age, have an equal right to present themselves; that is to say, not only the eldest of the entire lineage

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has the right to nominate, but each individual of greater age, who exists in each line, wherever they may be found. Concerning this matter, Pitonius, in *Controversiae de Patronato*, Allegation 100, n. (363), writes: « When there is a competition among lines of precedence, the order of precedence is not observed unless there is a distinction within each line, and each one who is closer in his line succeeds equally with another who is closer in another line, even if there is a comparative inequality of rank between them. » Therefore, the advocate argued that there were as many patrons or voices as there were lines descending from Catherine; but Father Joseph had two voices in his favor, from two distinct lines; therefore, the one presented by him should be declared the victor; for it has been established that he must be included among those presented.

(1) The advocate, in order to remove a further difficulty arising from the lack of the first tonsure, for which reason Salvator was ineligible for the canonry, also invoked a special *Motu Proprio* of Pope Pius VI, dated June 25, 1777, in which, concerning the Diocese of Malta, among other things, it was decreed: « But it often happens that many are called by the will of the testators to the same benefice or ecclesiastical chaplaincy; and therefore, the Bishop is compelled to promote all to the first tonsure, so that all ecclesiastical benefices and chaplaincies may be made available, from which a useless number of clerics arises, since a benefice or chaplaincy can only be conferred upon one; therefore, we decree that, in the future, whenever this happens, whoever believes himself to have a right to the benefice or chaplaincy, at a suitable time, should appear before the Ordinary, who, if he finds him to be suitable in terms of knowledge and good morals, and free from all canonical impediments, shall issue testimonial letters in his favor regarding his suitability for the first tonsure, by virtue of which he shall have the right to plead his case before an ecclesiastical judge, as if he had already received the first tonsure; which may then be conferred upon him who prevails in the case, and obtains the benefice or chaplaincy by the judgment of the judge, and it is established for this purpose, so that he may enjoy the privileges of those who have been tonsured. »

[*Latin ed. p. 298*]

298. OF NOMINATION OR DISPENSATION. To which a greater number of Patrons give their consent, chapter. Since it concerns the patronage. But furthermore, the Advocate maintained that the presentation of Salvator was ineffective and null, because he was not capable of obtaining canonical institution, in which case, even if he had been presented by more Patrons, the entire right of patronage would be considered vested in those who presented a capable person, as stated in the Decrees of the Benefices of Milevitan, June 10, 1712, before Aldrovando, §. Omitted. Moreover, he added that the founder expressly called for descendants from Catherine, provided they were suitable; but suitability for a canonical ecclesiastical

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benefice requires that the one who seeks it be a Cleric. On this matter, Pyrrhus, *Corrad. Prax. benef.*, 1.1, chapter and number 100 and following, wrote: "Regarding the fourth requirement," we say that an ecclesiastical benefice must be conferred upon a Cleric, and not upon a layperson, since the benefice is an ecclesiastical thing, which is given to a priest or cleric in order to perpetually exercise the sacred ministry, through canonical institution; for just as a layperson cannot confer an ecclesiastical benefice, because it is a spiritual right, so, for the same reason, it cannot be obtained by one who is incapable of spiritual rights, therefore, even if he is of the proper age to obtain a simple benefice, nevertheless, he cannot obtain a benefice of free collation, nor can he be presented for it, if it is a benefice of patronage, if he is not actually a cleric, in any way, although he may later be promoted, as decided in Buratti, 21, number 1, where it is stated that a presentation to a benefice of patronage is not valid if the person presented was not a cleric at the time of the presentation, and this was made known to the Ordinary, since this is required even for simple benefices, so that it is not sufficient if he becomes a cleric later, etc., and just as he must be a cleric at the time of the collation, so too at the time of the presentation. But Salvator was presented without having received the clerical tonsure; therefore, etc. But, the Advocate continued, it is in vain to inquire about Salvator's suitability according to the law of the foundation; for the nature of the benefice in question has been changed by the erection of the Cathedral: in all cathedrals, all canonries must have attached to them the order of the Presbyterate, Diaconate, or Subdiaconate, so...

[*Latin ed. p. 299*]

NOMINATION OR APPOINTMENT. 299 In order that only those who are suitable may be received, the law of Trent is invoked, Session 24, chapter 12: "Furthermore, let no one be admitted to a Dignity, Canonry, or Benefice, unless he has been initiated in that sacred Order which that Dignity, Canonry, or Benefice requires; or unless he is of such an age that he can be initiated within the time prescribed by law and by this Holy Synod." And the Advocate cited a Resolution of the Sacred Congregation of Councils, issued on February 12, 1644, concerning a question expressed in these words: "Can a Canonry, pertaining to the patronage of the laity in a collegiate church, be established before the Holy Council of Trent without any expression of a sacred Order, so that if, afterwards, said collegiate church is erected into a Cathedral with reservation of the rights of the Canons, by which they previously made use of, can the same Canonry be retained without the acceptance of any other sacred Order?" To this, the Sacred Congregation responded: "The Canonry cannot be retained without the acceptance of the sacred Order." And it was stated that two decrees, cited above, and the cause of Pergola, dated December 20, 1851, are of the same opinion; in this latter, the matter concerned the suitability of a

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boy, twelve years of age and not yet a cleric, who had been nominated to a Benefice, formerly a simple Chapel, under the condition of only accepting the clerical state, established in the church of the Fathers of the Order of St. Augustine, which had been elevated to a Cathedral by Pope Pius VII. The discussion revolved around the question: "Does John Anthony Redini require a dispensation regarding the lack of age, so that, and what age is required to obtain the Canonry called Droghini?" And the answer was: "Affirmatively."

Furthermore, the Defender continued, one might perhaps argue that the Tridentine provision is not strictly applicable in the present case, because in the Apostolic Letters erecting the Cathedral, it was stated: "We confirm and order that the respective foundations and patronages of the other Canonries be observed." For these and similar clauses are used to exclude the free and alternative collation by the Apostolic See and the Ordinary, and to preserve any patronal rights, which, however, do not conflict with the new nature of the Benefice. But what could be more contrary to the office of a Cathedral Canon than a child, who, by reason of his office, must himself chant in the divine offices, sing the conventual Masses, and be present in the chapter?

[*Latin ed. p. 300*]

300. CONCERNING NOMINATION AND DISPENSATION. Should a bishop be co-opted, and should another bishop be obligated to assist in performing the sacred rites and ceremonies for that bishop? Hence, it is the case that the Holy Congregation, in the aforementioned resolution, although dealing with lay patronage without any mention of sacred order, when a collegiate church was erected into a cathedral, with the reservation made of the canonical rights previously enjoyed, held that the canonry could not be conferred without the acceptance of sacred order. Likewise, in the decree of Balneoregion in the year 1764, although in the Apostolic Letters of Innocent XI, the clause was read: "without prejudice to any of those who previously held rights," and likewise in Perugia, although in the Letters of Pius VII, it was stipulated: "saving any kind of patronage right," so that those who are found to possess the necessary requirements through the right of patronage are admitted to the possession of the canonry with the same honors and obligations as the other canons. Therefore, the Advocate concluded, the presentation of Salvator lacked the necessary qualifications, since he was not capable of obtaining the canonry of the cathedral; moreover, he was presented without any condition attached to obtain a dispensation, concerning which Pitonius writes in the aforementioned place, Alleg. 2, n. 16: "But a presentation of an incapable and unsuitable person is entirely null, when it has not been made under the condition of a dispensation, whether the patron presents an incapable person knowingly or unknowingly." And not only was Salvator presented without any condi-

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tion, but he also did not, within the time allowed for presentation, take care to make himself eligible through a dispensation, as would have been necessary, according to what Pyrrhus Corradus teaches in the aforementioned place, I, 4, chapter 6, n. 26.

REGARDING THE SECOND DOUBT. Regarding the second doubt, the Advocate insisted before several authorities that a dispensation should not be granted to Salvator, since it would constitute a prejudice or injury to his client, who had been validly and legitimately presented, and who was moreover invested with sacred order; for the principle holds with the Holy Congregation that a dispensation is never granted to an ineligible person to the prejudice of another eligible person, as in Montisfalci on March 28, 1857, §. After these things, in Perugia on March 14, 1774, §. And generally. Especially since the aforementioned irregularities would not be remedied by the dispensation, as is considered in the decree concerning the canonry of Aretina on March 1, 1775.

[*Latin ed. p. 301*]

NOMINATION OR DISPENSATION. 301 Having presented the arguments copiously on both sides, the following questions are to be resolved: I. "Can a nomination be validly made in favor of someone... in this case?" And, negatively, "Is there room for a dispensation in favor of the same person in this case?" III. "And in whose favor should the institution be granted in this case?"

RESOLUTION. – The Sacred Congregation of the Council, having knowledge of the matter, decided on May 25, 1867, to respond as follows: To 1. Affirmative. In favor of the person who is to be tonsured with the clerical tonsure within four months and proceed to the higher Orders at his own initiative and time, being provisionally assigned an Ecclesiastical Administrator until the reception of the Subdiaconate. This Administrator, having fulfilled his duties, shall distribute the remaining revenues in favor of the aforementioned person, according to the will of the Bishop, having made an agreement with the Most Holy Father. To 2 and 3. Provision is made for what is stated in the first point.

FROM WHICH YOU MAY GATHER:

I. Although, according to the law of foundation, clerics may be called to a canonry in a collegiate church, even if they have not reached the canonical age; nevertheless, this cannot occur in cathedral churches, in accordance with the law of Trent.

II. When a collegiate church is changed into a cathedral, the rights of the Patrons must be adapted to the new and more noble status of the church, and therefore, it must undergo the change that its nature requires.

III. Furthermore, you gather that the Holy See does not grant a suitable

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dispensation to a person presented according to an invalid right, when other suitable persons are available through a presentation made by the Patrons.

IV. However, the Holy See may grant a suitable dispensation to a person presented according to an invalid right, if canonical reasons are present, even if other suitable persons are available, provided that these latter have not acquired the same right through nomination.

V. Just as the Holy See does not grant a grace to the detriment of a right acquired by a third party, so too it does not allow itself to be hindered in the opposite direction.

[*Latin ed. p. 302*]

302. OF NOMINATION OR DISPENSATION. In order that he may render someone capable, excluding others by the force of his nomination. V. In the present case, omitting all other considerations, the Savior was the only one presented by that Patron, who, being the eldest born of the entire lineage of Catherine, rightfully enjoyed the right to present a candidate for the vacant canonry.

OBSTACLE TO MARRIAGE. July 27, 1867. Session 24, chapter i, regarding the impediment of marriage. Summary of the case. Livius and Caia, born of humble lineage and station, indulged in mutual affection for nearly eight years, until Caia was defiled and bore a child. Then, Livius, having abandoned Caia, began to prepare for marriage with another woman; wherefore, Caia, turning to the episcopal court, petitioned and obtained an impediment to prevent Livius from proceeding with those marriages. Struck by this impediment, Livius petitioned the same court to grant a brief period of time to his adversary, as a term for confirming the asserted impediment of marriage, so that, if that time should pass without result, the impediment itself might be removed. Therefore, Caia's advocate remained in the court, prepared to demonstrate these three things: 1. That Livius had truly and firmly promised Caia that he would enter into marriage with her, and that Caia had accepted that promise; 2. That Caia had consistently led a life of honest conduct; 3. That, under the promise of marriage, she had been defiled by Livius, and had borne a child after repeated intercourse. The proceedings begun in the court, having almost reached a conclusion, were halted due to political upheavals; Livius, however, turned to the Holy See in order that the case might be decided. The Ordinary was asked to set a reasonable term for the parties involved to present their rights before him.

[*Latin ed. p. 303*]

IMPEDIMENTS TO MARRIAGE. 303 The documents and proceedings were transmitted to the Holy See, with the expressed consent of the parties and after obtaining appropriate information. The Ordinary, having done all of this, among other things, wrote: "Livius, under the pretext of mar-

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riage, was living in concubinage with another woman from a different diocese, having conceived a child. From the proceedings, the following was found in the records, among other things: Two documents were present, the first of which, drawn from civil records, testified that Livius appeared before a civil magistrate in May of 1862, to publicly declare his intention to marry Caia, which was ordered to be carried out, but that he subsequently neglected to follow up on the remaining proceedings. The second document, drawn from the Curia, testified that in June of 1862, the Ordinary granted a dispensation to Livius and Caia, so that they might contract marriage. In addition, two letters from Livius were presented, in which he responded to Caia's complaints, as if he had withdrawn the dispensation: in one, he stated that he had never been a betrayer, and that nothing of truth was contained in Caia's complaints, and he urged her to consider, despite any contrary suspicion, the means by which all questions might be resolved. In the other, Livius wrote a similar sentiment on August 31, 1862. These were accompanied by the testimonies of witnesses, who, from their own knowledge, testified as follows: Livius said that he would soon enter into marriage with Caia; Caia, in the presence of Livius, said that she would marry Livius, to which he made no response; Livius inquired about purchasing shoes for his bride, since he was supposed to enter into marriage; Livius was frequently asking about the lack of the woman's dowry and about the dissent of his parents (Livius's parents). Several witnesses testified that another man frequently visited Caia's home. This man was the fiancé of Caia's sister. From other testimonies of witnesses, the following was elicited: Livius, whether questioned, reprimanded, or speaking spontaneously, confessed that he was the author of the rape, that he would marry Caia, that he had seduced Caia with the promise of marriage, and that he had defiled her in order to remove suspicion arising from a certain rumor that he had heard, that Caia was not a virgin; however, he found her to be a virgin; he postponed the marriage because of the dowry. These and similar things were found in the records.

[*Latin ed. p. 304*]

304. OBSTACLES TO MARRIAGE. We abstain from a detailed discussion, since the same points arise which we have repeatedly presented in these publications concerning those engaged in marriage. QUESTION. "Whether and in what manner there is a place for the removal of an obstacle to marriage" in this case. RESOLUTION. – The Sacred Congregation of the Council, having knowledge of the cause on July 27, 1867, judged it fitting to respond: that there is no place for the removal of an obstacle; and further, that: FROM WHICH THE FOLLOWING MAY BE GATHERED: I. A virtuous maiden, having received a promise of marriage, made with deliberate intention, is to be held to the marriage with the one who made the promise. II. This obligation does not cease for the reason that the

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man, in that condition, comes to be under a civil law which protects such a condition through a civil union (1). (1) Here, it can easily be asked, how can the Ordinary act in these circumstances, if the betrothed man wishes to act according to the dictates of his conscience? For a difficulty presents itself to all: on the one hand, the betrothed man is bound by the obligation of the betrothal to take the woman with whom he entered into the betrothal; and she is not to yield her right in this matter, with such a loss to herself; on the other hand, the betrothed man, although through his own fault, is nevertheless bound by civil law to live with a civil concubine; and therefore, censures of canon law would be useless in compelling him to take the first woman as his wife; regarding which, see what we have written in Vol. II, page 258. In these circumstances, the practice of the S.C.C. seems to be that the betrothed man should demonstrate his willingness to compensate the first woman for all the damages she has suffered, namely, by assigning her a proper dowry, by taking upon himself the burden of supporting any children that may be born, and then to offer humble prayers to the Most Holy [Mother of God], that she may deign to grant a dispensation from the obligation of the betrothal, if the woman does not wish to relinquish her right to the betrothal.

[*Latin ed. p. 305*]

305 CONCERNING THE RITES OF FUNERALS AND THEIR REVENUES, February 16, 1867. Session 24, chapter 13, concerning Reforms. Summary of the case. In the city of Tipherno, a certain custom prevails, solemnly confirmed by agreement, according to which the cathedral church is not obligated to pay the fourth part of the funeral expenses to the parish priests of the city, whenever the subjects of these priests choose to be buried in the aforementioned cathedral church. A certain Angelus died in that same city, and in his will, he left written instructions that just funeral rites be performed for him in the cathedral church. The parish priest, to whom Angelus belonged, considered, according to that law which commands that the bodies of the faithful be buried in the public cemetery, that it is forbidden to anyone to choose the place of their repose; therefore, he concluded that funerals could be celebrated in no other church except the parish church; and thus, he opposed the Chapter celebrating the funeral, arguing that he alone has the right to expose the bodies of the deceased parishioners in the church, and that all revenues from funerals should be returned to him, with compensation for damages. According to this tenor, he presented a petition to the Sacred Congregation of the Council, to which the following doubt was proposed. Doubt. "Whether and in what manner should the petition of the parish priest be approved in this case?" RESOLUTION. — The Sacred Congregation of the Council, having knowledge of the case, on February 16, 1867, decided to respond negatively, and furthermore. From WHICH YOU MAY GATHER: The

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recently introduced public cemeteries do not in any way harm the rights of churches and the faithful with regard to funerals (1). (1) See what we have written in Folio L, page 87 and page 124 and following, as well as in the present volume, page A4. IIIIII II l«l Acts, volume III, section XXX. 20.

[*Latin ed. p. 306*]

306 OF PIOUS SOCIETIES. June 27, 1867. REGARDING PRECEDENCE. Session 24, chapter 14, concerning reforms. A summary of the facts. In a certain town within the Archdiocese of N., there exist several canonically erected societies, each with a different name. These societies are accustomed to proceeding together, in order, to public ecclesiastical devotions. In the year 1860, a devotion was held in that town to implore rain due to the drought affecting the fields. However, while the secular priest was delivering a homily to the people, the society called "of the Most Holy Sacrament," proceeding, placed itself within the church, ahead of the other societies, which caused a disturbance and dissension; and from this arose the present cause. As disagreements and scandals continued to arise due to the matter of precedence, on May 27, 1864, the Archdiocesan Vicar prescribed to all the directors of the societies that, during devotions, each society should remain at the doors of the church, while only the secular and regular clergy should enter. But this arrangement did not please the director of the society of the Most Holy Sacrament, so that the Vicar, turning to the Sacred Congregation of Rites, ordered confirmation of the decree he had issued. This confirmation was given on the understanding that the societies should obey the decree, but that the rights of each society should then be presented to the Sacred Congregation of Rites, to be considered. In the meantime, the Vicar warned the director of the society of the Most Holy Sacrament to refrain from claiming this right in the next devotion to be held, and to be held responsible for any disorder that might result if the members disturbed the sacred function. With matters proceeding in this way, the society subsequently presented its rights to the Sacred Congregation of Rites, explaining, according to the custom observed in sacred devotions, that it was accustomed to entering the church along with the clergy, while the other societies remained outside the church. It also demonstrated the orderly manner in which this was done, and how the entire devotion proceeded in an orderly fashion. This document was then sent back to the Archbishop, so that, after receiving information and hearing those involved, he might report on the matter.

[*Latin ed. p. 307*]

REGARDING THE PRECEDENCE OF PIOUS SOCIETIES. 307. After prayers, having received the documents pertaining to the matter, nothing had been altered in the meantime; twenty-seven witnesses were heard, who unanimously testified that, in the solemn procession of the Body of the

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Lord and in that of the holy patron of that town, the Society of the Most Holy Sacrament had always entered the church with the Chapter and the clergy, while the other societies remained outside the church; the same had also been observed in other processions. Furthermore, the Archbishop noted that this right of precedence could only be claimed by the Society by virtue of custom; although it was of more recent foundation. However, he added that, if we are speaking of the solemn procession of the Body of Our Lord, as in all other processions in which the Most Holy Sacrament is carried, the exclusive privilege of precedence belongs to it, as can be deduced from the Resolutions of the Holy Congregation of Rites; and that this applies to a Society which, in order to offer worship to the Most Holy Sacrament, bore greater expenses and burdens of alms each year. And he concluded that, both for the sake of the existing custom and for the privilege that such a Society rightfully possessed, it was fitting to grant precedence to that Society. After these observations were made, a decree was issued to examine the case in detail, and, as is customary, the Archbishop was asked to inform the parties, within a reasonable time, to present their rights before the Holy Congregation. After hearing the parties, the entire question was reduced to this: the other societies did not deny the custom favorable to the aforementioned Society; but they stated: if they were forbidden to enter the church in order to avoid confusion, then the Society of the Most Holy Sacrament should not be permitted to do so either; since the care of the Rector meant that the Society no longer consisted of eighteen or twenty members as before, but had been increased to a much larger number. However, the Archbishop considered that it should be prescribed that only the secular and regular clergy should enter the church, and eight or ten members of the Society of the Most Holy Sacrament, who carry lit candles. After these and other similar considerations, it was decided to resolve the doubt: "Whether and how the custom should be observed in this case."

[*Latin ed. p. 308*]

308 CONCERNING THE PRECEDENCE OF PIOUS SOCIETIES. RESOLUTION. — The Holy Congregation, having knowledge of the matter, on July 27, 1867, decided to respond: Affirmative, according to the vote of the Archbishop, but so that only twelve members of the confraternity may enter and remain within the church. FROM WHICH WE GATHER: I. Questions concerning precedence, which repeatedly arise during the performance of sacred functions, must be settled by some mandate or decree, which will preserve the rights of all those contending, so that the matter may be brought before a judge for a legal resolution. II. The Sodality of the Most Holy Sacrament, whose establishment in each parish is most highly recommended (1), enjoys special privileges over other sodalities in processions in which the Most Holy Sacrament is carried (2). (1) See what

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we noted in Vol. II, p. 29ff. (2) The constitution which regulates precedence in processions, in order to especially prevent controversies that arose among the Mendicant Orders, as well as among sodalities, is that which was issued by Gregory XIII on July 25, 1583, which begins with the words, "Exposcit," in which it is decreed: "Those who possess, and have the right of precedence, (with all claims, protests, appeals, and other subterfuges entirely rejected and set aside), must precede in both public and private processions. When, however, it cannot be proven, or it is not established, that such a right of precedence exists among Mendicant brothers, those who are older in the place of contention; and among confratres contending with each other, those who first used the sacristy, must precede in both public and private processions; unless it happens that a new monastery, or house of some Order of Mendicants, is located in a place where another Order of Mendicants had previously established and founded a monastery or house, in which case the Order which first had a monastery or house in that place, shall precede. This constitution may be considered as a common law, to be observed, unless something else prevents it. Thus, for example, in the case of the Mendicant Orders, the Constitution of St. Pius V, which begins with the words "Divina," would apply to the Brothers Preachers of the Order of Saint Dominic, generally granting them precedence over other Mendicants. Similarly, in our case concerning the Sodality of the Most Holy Sacrament, there are many resolutions of the Holy Congregation of Rites from the year 1639, which grant it precedence over other sodalities in processions of the Most Holy Sacrament, although a certain condition is attached; thus, in Rome, on July 18, 1639, the Sacred Congregation decided: "Precedence must be given to that confraternity which first used the sacristy, even in the presence of the Confraternity of the Most Holy Sacrament, to which, however, precedence must be given in processions of the Most Holy Sacrament, provided that it also attends other processions and walks in its proper place." These resolutions are in agreement with those that were given later, as in Milan, on November 14, 1651, and in Lauden, on March 4.

[*Latin ed. p. 309*]

PRIORITIES OF RELIGIOUS CONGREGATIONS. 309. Such privileges consist in precedence, which belongs to this Congregation, although it is of more recent foundation than others. IV. Finally, you observe that custom, or quasi-possession of precedence, is of great importance in such matters. In 1662, in Vercelli, on September 20; in Melite, on September 23; and in 1820, when the Holy Roman Church declared: "Precedence is due to the Congregation of St. Joseph, except in processions of the Most Holy Sacrament; and the Congregation of the Most Holy Sacrament may be held and compelled to participate in other processions, but by order, prudence, and the judgment of the Ordinary." And these last words, "by order, etc.," as

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Gardellini notes in his golden annotations to the decrees, were added "because truly it is only the prerogative of the Ordinary to decide whether, in certain circumstances, it is fitting or not to compel other Confraternities of the Most Holy Sacrament to participate in processions." And, omitting other similar resolutions which can be found in the Gardellinian Collection, in Milan, on June 19, 1655, the Holy Roman Church decreed: "Precedence belongs to the Congregation of the Most Holy Sacrament over the Confraternity of St. Ambrose in all processions in which the Most Holy Sacrament is carried." Certain other matters concerning such processions of the Most Holy Sacrament are addressed in these decrees; in Adrianople, on April 12, 1603, the following was stated by the Holy Roman Church: "The Congregation of the Most Holy Sacrament in the Cathedral Church of Adrianople, whose members have been accustomed to carry lit torches in processions of the Most Holy Sacrament, having requested that they be permitted to carry the same lit torches on the most solemn day of the feast of the same, but the Bishop forbade them to do so, under the pretext that, according to the new Ceremonial, the clergy and chaplains must carry them on that day, petitioned the Holy Roman Church to uphold their right to carry the same lit torches both in the processions of the Most Holy Sacrament which take place throughout the year, and in the most solemn procession which takes place on the feast day of the same Most Holy Sacrament." The Holy Roman Church responded: "This is not prohibited by the Ceremonial, in which, on the contrary, it is declared that both laymen and clergy should carry lit torches or candles in order to honor the Sacrament, and that this may be done; therefore, these confratres should not be molested by the Bishop." And in Nepeta, on May 10, 1608, the Sacred Congregation responded, among other things: "Because (these are the words of the Sacred Congregation) on the feast of the Most Holy Sacrament, the expenses of wax and other necessary things are incurred in that region of Campagna by the aforementioned Congregation, or Confraternity, of the Most Holy Sacrament; it is declared that some of the aforementioned confratres of the Most Holy Sacrament, wearing sacks and carrying lit lanterns in their hands, may and should walk here and there before and near the Most Holy Sacrament."

[*Latin ed. p. 310*]

Regarding the Suffrage and Precedence of a Bishop. August 24, 1850. Summary of the matter. The Archbishop of Aix stated that he would celebrate a provincial synod in his metropolitan church, as other synods had already been held in several provinces of France; but since it happened that a titular bishop resided in that metropolis (for he had resigned the bishopric which he had held for a long time in another province), and before the suffragan bishops convened there with the others who held sees in the provincial council, he proposed the following questions to the Sacred Con-

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gregation for resolution: I. "Whether the said bishop can exercise a decisive vote in the provincial council." II. "Whether he should enjoy precedence over the other suffragan bishops, if he had previously received episcopal consecration." III. "Whether he can be considered as an exempt bishop." Scholastic Discussion. CONCERNING THE FIRST QUESTION. — By official duty, the text of the Council of Trent, Session 24, De Reformatione, chapter 2, was recalled, where it is stated: "Provincial councils, if omitted, should be renewed for the regulation of morals, for correcting excesses, for settling controversies, and for other matters permitted by the sacred canons. Therefore, the metropolitan, either by himself, or if legitimately hindered, should compel the senior coadjutor bishop to hold a synod in his province, so that all bishops (i.e., suffragan bishops) and others who are required to attend by law or custom, may convene." It was therefore initially questioned whether the said titular bishop was required to attend, either by law or by custom. It is stated that abbots and commendatory archbishops, both with and without territory, chapters of cathedrals and collegiate churches having episcopal jurisdiction, or their vicars, are to be admitted, as taught by Quaranta in the Summa Rerum, verb. Concilium provinciale, from question 2 to 6, and by Petra in Commentaria ad Constitutionem Honorii II, section 1, number 12 and following, volume 1.

[*Latin ed. p. 311*]

REGARDING THE RIGHT TO PARTICIPATE AND THE PRECEDENCE OF BISHOPS. 311 Others maintained that the entire matter depended on custom; therefore, it was concluded that, in the present case, the Bishop did not have the right to convene the provincial synod, since he neither held jurisdiction nor had the custom of participating in it, as he was a unique case in that province. However, it was not denied that he could be admitted if it pleased the fathers of the council, according to what Zerola states in *Praxis Episcoopal*, Book 5, question 5, where he asks: "Can Bishops from another province be admitted?" And he responds: "Sylvester, in the word 'Council,' number 9, § 6, says that yes, if they come voluntarily, and similarly, others whose presence is necessary, are there as Consultors." Assuming his admission, since the power to give a deliberative vote is considered, by law, to belong only to those who hold episcopal or quasi-episcopal jurisdiction, the Bishop in question, being without jurisdiction, would not have this power; and this is the reason why this power is often denied to other Abbots who do not hold jurisdiction, as well as to cathedral Chapters who have only a consultative vote, as Tomassini states in *De Nova et Vetera Ecclesiae Disciplina*, part 2, chapter 3, section 5, number 9. Petra, in the aforementioned place, Fagnan, in *De His Quae Fiunt a Maiori Parte*, chapter 5. Gavant, in *Manual Episcopalis*, word 'Council,' provincial synod, number 53 and following; and others.

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REGARDING THE SECOND DOUBT. — Some arguments were presented that seemed to favor an affirmative response, and these were as follows: In chapter 31 of book 1 of the *Caeremoniale Episcoporum*, it is stated: "Bishops shall precede according to the order of their promotion, with no regard for the dignity or prominence of the churches." Catalanus notes in § 15: "These apply to both oecumenical and provincial synods," and the authors agree on this point; and Campegius, in *De Authoritate SS. Conciliorum*, chapter 15, §, states that the reason for this is the time of election, and not of consecration, except for the Metropolitan, who, as president of the council, always takes the first place. These considerations seemed to apply to all Bishops, whether holding jurisdiction or merely titular, since no distinction is made in the present law; moreover, the Bishop who has simply resigned the episcopate retains the privileges of his order, his honor, and the rights of reverence.

[*Latin ed. p. 312*]

312 OF THE PRECEDENCE TO BE GIVEN AND THE PRECEDENCE DUE. But the other opinion seemed more correct, namely that a titular bishop, admitted to the Council, should precede the suffragan or co-provincial bishops who have jurisdiction: for these are assessors and colleagues with the Metropolitan, forming one body; and the authority of Cardinal De Luca was cited in a more difficult case: the question was between the titular Archbishop of Sebasten, the vicarius or coadjutor of the Archbishop of Prague, who was adorned with the title of suffragan without jurisdiction, and the suffragan bishop of Lithomericen with jurisdiction; speaking generally of precedence, the aforementioned Author wrote in disputation 16 on Precedence: "But when, in the second case, a concurrence of such prelates arises within the Metropolitan city and its diocese, or province, in matters relating to public functions and jurisdiction by reason of the actual episcopate and prelate, such as in a provincial synod, in the consecration of a co-provincial bishop, in a royal diet, in the coronation of a king or queen, or in similar matters, and among acts altogether indifferent and private. In the first case, without doubt, I said that the bishop should have precedence, because, since these are acts which are performed in the name of the prelate, the titular archbishop, as not existing in that order or genus, has no right to intervene in them; because it is outside his office; and therefore he is considered a mere private person: and the same reason applies to the preceding case, namely that he who has jurisdiction in his own territory or place should precede him who does not; and also for a reasoned reason, that the Metropolitan and his suffragans constitute one and the same body of the province, of which he is the head, and the others are members, and therefore no other person can intervene, etc. (1).

(i) According to this distinction, certain Resolutions of the Congregation of Holy Rites seem to be understood, which, on the occasion of this

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case, were transcribed from the records of the Holy Congregation, namely: Prague. "The titular Archbishop of Sebasten, suffragan of Prague, claimed precedence from the Metropolitan dignitaries in some matters." - On December 1, 1637, the Holy Roman Congregation responded: "To the titular Archbishop, as well as to the archbishop with residence, obedience and respect are due; if, indeed, although the circumstances of the sees are different, the rights of the prelates always remain the same; for although the enemies of the Catholic religion may give force to actions, it does not diminish the power and jurisdiction which are inherent in the episcopal dignity, and therefore the Archbishop, as the Orator..."

[*Latin ed. p. 313*]

RIGHTS, PRIVILEGES, AND PRECEDENCE. 313 REGARDING THE THIRD. – After the matters previously presented, the response to the third question seemed readily apparent: for although the Council of Trent, in the aforementioned passage, decreed: "Also, Bishops who are not subject to any Archbishop shall choose a neighboring Metropolitan, and shall attend his provincial synod with the others, and shall observe, and cause to be observed, what is ordained therein," it was understood that this referred to exempt Bishops who possess jurisdiction, who participate in the provincial synod, of which they have chosen a Metropolitan, as Assessors and Coniudices, just as suffragan Bishops, and enjoy precedence according to the order of their promotion, as taught by Gallemart in *Conc. Trid.*, c. 2, sess. 24, Zerola in the aforementioned place, q. 4, and others cited above, and specifically Cardinal Petra in the aforementioned place, n. 61 and 62.

RESOLUTION. – The Holy Congregation of Councils, after discussing the question through summary prayers proposed in the assemblies held on August 24, 1850, decided to respond as follows: to I: Negatively, unless all and each Bishops consent; to II and III: Negatively.

FROM WHICH WE GATHER:

I. Just as the ecumenical Synod is the juridical representation of the universal Church of Christ, so too is the provincial synod the juridical representation of the provincial Church.

II. Therefore, all those who are suitable to juridically represent the provincial Church should be able to, or ought to, participate in the provincial synod.

III. Such suitability is either defined by law, or by custom.

IV. By law, first come the suffragan Bishops under the presidency of the Metropolitan, who, by their own right, exercise jurisdiction in the synod, and who constitute an essential part of the provincial synod, and other exempt Bishops who have chosen a Metropolitan for this purpose. All other ecclesiastical dignities are to be given precedence over these, everywhere

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and in all matters.

The resolution of the Sacred Congregation of Rites, dated April 8, 1656, states as follows: Archbishops and Bishops who are titular and present in a foreign diocese must be given precedence over Archbishops consecrated more recently, as well as over other Bishops of higher seniority, but of lower rank in the archiepiscopal order; however, outside the confines of the Church, the Ordinary has precedence over all Archbishops and Bishops, even those who are older.

[*Latin ed. p. 314*]

314. OF THE RIGHT TO VOTE AND PRECEDENCE. V. Secondly, Abbots and others who possess a jurisdiction similar to that of a Bishop within the province, and who, if exempt, have once chosen that province, are to be admitted. VI. Finally, those who are distinguished by ecclesiastical dignity within the province, and also the Chapters of cathedral churches, which, by law, are to be summoned to the provincial synod (1). VII. Therefore, other ecclesiastical dignities that may happen to be found in the province, and which are neither dignities of the province, nor represent any provincial dignity, do not have the right or the office to convene the Synod. VIII. Such dignities, although they may be readily admitted to the Synod, cannot nevertheless give a definitive vote, unless all those who, by their own and proper right, have the right to give a vote, consent. (1) It is fitting to recall here a recent resolution of the Sacred Congregation of the Council concerning the case of Strigoniensis. The Sacred Congregation of the Council has repeatedly defined that the Chapters of cathedral churches are to be summoned to the provincial synod according to the text in Cap. Etsi membra. In the case of the metropolitan church of Strigoniensis, the Chapter was summoned to the provincial synod, but the Canons complained first, that they had been invited to the synod not as a college, as they wished, but through Proctors; secondly, that they had been placed after the Abbots who had a separate territory, which they considered not to be their due. The synodal judges, with the approval of the Archbishop, provisionally rejected both petitions, reserving the rights proper to the Chapter, without any prejudice for the future, as is customary in legal judgments. Therefore, after the conclusion of the synod, the Archbishop presented the matter to the Sacred Congregation of the Council, on June 18, 1859, and the following question was proposed: "Whether, and how, the decree of the synodal judges of September 30, 1858, should be observed in the next synods, concerning the access of the Chapter of Strigoniensis to the synod through Proctors, and concerning the order of seating in that case." After deliberation, the Sacred Congregation responded: "The metropolitan Chapter is to be imitated in its attendance at the provincial synod, as long as it is celebrated in the same city, but with the service of the choir arranged at the discretion and prudence of the Archbishop. The Canons, whether intervening collegially

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or through Proctors, shall have their place according to the prescription in the *Caeremoniale Episcoporum*, book 1, chapter 31. In the *Caeremoniale Rerum Ecclesiasticarum*, where the order of seating in the synod, whether provincial or diocesan, is discussed, the following is stated: 'Dignities and Canons of the cathedral church, whether they proceed collegially or are present, are to be given precedence over all others; then Abbots titular, and those who have the use of the mitre, and after them Commendators, then Dignities, then Proctors of cathedral churches, and then the rest, according to their dignity and rank.'"

[*Latin ed. p. 315*]

315 FROM THE PROCEEDINGS OF THE CONGREGATION OF BISHOPS AND REGULARS. CONCERNING THE RIGHT OF BURIAL. September 13, 1867. Summary of the case. The family M. possessed the right of burial in a certain tomb within the collegiate church of the town of Enet. For upon the stone placed above, the inscription "Familiae M... Cineres" was legible; and the same inscription was recorded in an ancient document of the same church. Furthermore, other documents were obtained from ancient records of the Bishops, which beyond all doubt confirmed the right of that family M. The last and only surviving member of this family was Caietan, with whom the entire family M. became extinct. Caietan named Agnes R. as his heir, who was likewise buried in the aforementioned tomb. Agnes's heir was Theresia, who married Joseph P., and who also obtained burial in the same place. The daughters and heirs of this woman, namely Maria, Agnes, and Veronica, considered themselves to have inherited the right to that tomb, which had formerly belonged to the family M. However, they were opposed by the Canons of the aforementioned collegiate church, and also by the parish priest in whose parish they resided; although all of them agreed that this right could be transferred to the sisters P. by grace, with the condition that, as far as the Chapter was concerned, all rights pertaining to the church would be entirely preserved; and as far as the parish priest was concerned, that funerals would be celebrated in the parish church, or at least that compensation would be paid to the parish priest. In this situation, the sisters P. presented their supplications to the Most Holy Congregation of Bishops and Regulars; and after hearing the parties and the Ordinary, a Rescript was issued on March 16, 1866, with these words: "Most Holy Fathers, with the approval of the Ordinary, and with the consent of those having an interest, the requested permission is granted solely in favor of the sisters P., as orators, with the parochial rights preserved, and with other rights that must be observed by law; contrary to this, etc."

[*Latin ed. p. 316*]

316. OF THE RIGHT OF BURIAL. It was indeed fitting that such a decree be issued, but its execution was hindered by certain difficulties, which it is

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unnecessary to recount here. Then Joseph P., the father of the aforementioned sisters, still living and engaged in usury, taking up the defense of his daughters, addressed the same Holy Congregation, arguing that the right of burial should not be denied to his daughters, and, if something were to be paid as an alms, he implored that the amount to be paid be determined by the Most Reverend Fathers. A decree was issued, ordering that the matter be presented to the entire Congregation. Therefore, the arguments were again heard in writing, and the Apostolic Administrator, who had meanwhile obtained the governance of the diocese from the Pontiff, abstained from expressing his opinion. A synodical discussion. HOW THE SISTERS DEFENDED THEMSELVES. Two points were presented as the most certain in their defense: first, that the right of burial in the collegiate church belonged to the family of M.; secondly, that they were legitimate, albeit distant, heirs of the family of M. Since it is known that heirs, even distant ones, succeed to the entire right that the deceased testator possessed, as is read in *De Diversis Regularibus Iuris*, paragraph 194 and following: "Those who are heirs of the deceased, even through the longest succession, are understood to be heirs just as those who are the principal heirs." Therefore, they argued, the right to the burial place, which is the subject of the question, had passed to them, just as their other goods, belonging to their mother, Agnes R., and their sister, Theresia. Furthermore, addressing the matter more directly, they maintained that, according to the clearest provision of civil law, the right of burial, whether familial or hereditary, belongs even to those outside the family, that is, to those not related by blood to the testator, as is read in *Zabaglia, 13 C. de Relig., et sumpt funer.*: "The right of burial, whether familial or hereditary, belongs even to those outside the family; the familial right belongs to the family, even if none of them are heirs, and not to anyone else who is not an heir." Furthermore, they observed that they were in possession of this right, for Agnes R. and Theresia, both witnesses, had previously been buried in the aforementioned burial place of the family of M., as stated above.

[*Latin ed. p. 317*]

RIGHTS OF BURIAL. 317. It has never been objected that someone might have opposed this; indeed, it is clear from the pronouncements of the Holy Rota, although this is the only case of its kind in this matter, that it provides a legitimate title, by which someone must be maintained in that right, Decision 5082, number 1, page 3, Recent. WHAT THE PARISH PRIEST ALLEGED. The Parish Priest maintained that the matter concerned a family tomb; and therefore, because it concerned a family tomb, the right of burial could not be granted except to relatives or perhaps to those related to the family M., who are said to be members of that family; but not to outsiders, such as the petitioners, who certainly could not be considered members of the family M.; and that it is the common doctrine of canon law

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interpreters that the rights of a family tomb are extinguished completely with the family, so that the Church is freed from such servitude, Rota, Decision Coccino, 291, number 1; Decree on Burial, March 14, 1647, Decision Donizetto; De Luca, Disputationes, 38, numbers 7 and 8, Miscellanea Ecclesiastica; Lotter, De Beneficiis, book 2, question 4, number 28; Fargna, De Iure Patrimonium, page 1, canons I, II, ease 2, number 4. Furthermore, he argued, it would not be detrimental to the hereditary right to which the petitioners were aspiring: for they could not succeed to a right that remained extinguished with the family M. Nor did he claim that any pretended possession of the right to the tomb would benefit them: for burials made in the aforementioned tomb would be something improperly done, contrary to the freedom of the Church; and it would not be appropriate to offer the argument that it would be inconvenient to settle the matter. WHAT FURTHER WAS ADDED FROM THE OFFICE. It was observed that what both parties had presented as true and certain in support of their respective rights was indeed so: for if regard were to be had for civil law, the sisters would succeed to the rights of the family M. concerning the tomb; but if canonical jurisprudence were to be observed, the opposite should be said. Therefore, in this difference between the two laws, it could not be doubted that adherence should be given to canon law. It is not surprising, he added, if a different provision is found in civil law; for it has sometimes happened that among the Gentiles, tombs were built on private land or near public roads, and although considered sacred and inviolable, and therefore outside of commerce, nevertheless they were held as if they were our own, according to § 9 of the Institutes on the division of things, and the prohibition against religious places continued the cause as if of property; and from this, the right of burial passed to the heirs, Voet, book 11, title 7, number 4, and could be bequeathed at will.

[*Latin ed. p. 318*]

318 OF THE RIGHT OF BURIAL. But, on the contrary, in the Christian religion, burial places are most often situated in sacred temples, and not in private estates; and therefore, private individuals, besides the customary right of burial granted by ecclesiastical authority, can possess no dominion, no property whatsoever. Wherefore, if a family should be granted this faculty, it does not extend to its heirs, since they are not included in the grant. Nor, moreover, does the last surviving member of a family have the power to dispose of this right granted to the family, as does a patron regarding ecclesiastical benefices, in which the right of patronage, whether of noble or family origin, becomes hereditary in the last-named heir: for the right of ecclesiastical burial is more akin to the right of usufruct, which is extinguished with the person to whom the usufruct was granted, *Fargna de iurepalr., par. 1, can. 1 et 2, esp. 2, n. 4*. With these and other considerations in mind, the doubts to be resolved are as follows: I. "And how is

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the place to be reported concerning the Rescript of March 16, 1866, in this case?" Answer: Affirmative. II. "Does the right of burial belong to women?" RESOLUTION. — The Holy Congregation of Bishops and Regulars, having knowledge of the matter, decided on September 17, 1867, to respond as follows: To I. Negatively, in all cases (1), and to the Administrator of the Diocese (1), to report the aforementioned Rescript is the same as returning the Rescript to the Holy Congregation from which it originated, so that it may be filed among the records, or torn, or deleted; it is, therefore, the same as if it had not been granted and issued. Since, in the present case, the Fathers respond that there is no need to report the Rescript, this is the same as saying that the Rescript is not to be returned, and therefore, it is to be considered valid and committed to execution; to which they added the following opinion. If someone has an interest in having a Rescript issued by the Sacred Congregations revoked, if it has not been ordered for execution, that person can insist that it not be ordered for execution, or even that it be reported: and the formula for questioning usually proceeds in this way: "Is the Rescript to be ordered for execution, or reported, or by any other 'equivalent' means?" Nor should it be surprising if, among the large number of Rescripts that go out from the city, sometimes one must be revoked; concerning which we have an explicit text in the Decretals, chapter 5, on Rescripts, in which it is written: "If at any time we direct something to your fraternity that seems to exasperate your spirit, you should not be disturbed..." Carefully consider the nature of the matter for which you are writing.

[*Latin ed. p. 319*]

RIGHTS OF BURIAL. 319 mind: it is necessary that the Most Reverend Administrator, after hearing the parties concerned, determine a compensation that is just and equitable. Regarding the provision in the first section. FROM WHICH WE GATHER: I. Although, according to civil law, tombs that were customarily placed on private land were considered to have a religious character and were therefore outside of commerce, nevertheless, they were considered to be the property of those who legitimately bequeathed them, and were included in their inheritance. II. Therefore, the laws and rights of inheritance and succession easily extend even to the right of burial, even though these tombs were family tombs. III. With the increase of Christian custom, the bodies of the faithful are buried in sacred temples; and the Church has granted a special faculty to certain families to have their own burial place therein. Our reverend brother, you must either fulfill our mandate, or, by letter, present a reasonable cause why you cannot fulfill it. For we will patiently endure if you do not do what has been suggested to you by a false suggestion. And we have an example of the revocation of a Rescript in the case of Rome before the Sacred Congregation of the Council, which was debated on April 23, 1864. It concerned a certain

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disposition made by the Canons of the church, concerning some Chaplains: an Apostolic Rescript was requested, in order that this disposition be approved, which was obtained, with the following conditions: "After prior permission and forgiveness of the fruits received by the Chaplains, for the approval, at the discretion of the Most Reverend Archpriest, according to what was requested." This Rescript was not immediately put into effect: the Chaplains then insisted that this Rescript not be put into effect. The question was proposed under the doubt: "Whether the Rescript should be executed?" The Sacred Congregation of the Council answered: "No," with the words of the Holy Father. If the Rescript has been put into effect, then there is no other recourse than to insist on its revocation. But if we are dealing with Rescripts of the Holy Congregations, which have been issued by a Bull or by a Brief, then first recourse must be had to the Supreme Pontiff himself. For against these more solemn acts of the Holy Father, there is no right to speak out, unless this is first granted by special grace; especially when in Bulls and Briefs, the clause "sub lata" is most often added, that is, the clause by which the Holy Father removes from inferior judges the power to interpret, to speak out against, and to challenge what has been decided therein. Furthermore, if there is a flaw of deception or trickery in these matters, then the Supreme Pontiff, at the request of the party concerned, with the help of his Auditor, or even summarily through the Holy Congregations themselves, gives the petitioner the power to speak out about the aforementioned acts. And then two doubts are presented before the Holy Congregations: 1. "Whether the right to speak out, etc., is permissible, or even: whether the right to open one's mouth, etc., is to be granted?" And, if affirmative. 2. "Whether there is evidence of deception and trickery, etc."

[*Latin ed. p. 320*]

320 OF THE RIGHT OF BURIAL. beautiful; that the laws of inheritance and the laws concerning property could not, in the same way, apply. IV. For there are included the laws of ecclesiastical immunity and liberty, which, by their very nature, repel any external servitude from sacred places. V. Therefore, once a family burial place has been granted by the Church, this concession ceases when the family is extinct (1). (1) It may perhaps be asked, whether the same should be said of family burial places located in public cemeteries: whether, that is to say, when the family is extinct, external heirs have the right to the burial place, which belonged to the testator. If nothing particular obstructs, arising from the will of the family which established the burial place, such as, for example, if the family expressly excluded other external members from the burial place; it seems that the laws of inheritance also easily extend to these family burial places, for either they entirely cease, or at least that principal reason sought by ecclesiastical liberty from servitude is very much diminished. For we are

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dealing with public places, in which every faithful person is obliged to be buried after death. Therefore, unless the Church is involved in the matter, only a temporal and secular right comes into consideration; in which case, as Cardinal De Luca writes in *Miscellanea Ecclesiatica*, 2, n. 11: "And although 'the dispositions' from the original tradition 'by civil law in matters concerning burial places,' 'have no place in canon law,' since it is not permitted for a secular prince to dispose of spiritual things; nevertheless, this 'proceeds to the effect of ecclesiastical liberty,' or rather, of the privative right of servitude, and not to the effect of a proprietary interest between private individuals, unless the Church is not involved in the matter, nor is contending for liberty, because then 'it is said to be a temporal or secular right,' just as, as stated above concerning chapels in a church, with regard to the materials and ornaments, and the very physical location, which are said to be in a hereditary property."

[*Latin ed. p. 321*]

321 IX. BEGINNING OF THE LIST. DECREE. On the feast day of Saint Nicholas, December 2nd, 1867. The Sacred Congregation of the Most Eminent and Reverend Cardinals of the Holy Roman Church, by order of the Most Holy Pope Pius IX and the Holy Apostolic See, for the purpose of condemnation, expurgation, and the regulation of books, both those already published and those yet to be published, within the jurisdictions of prelates and delegates, and within the Christian Republic, held in the Apostolic Palace at the Vatican, condemns, condemns, and prohibits, or orders that the following works be included in the Index of Prohibited Books, and that all other condemned works be likewise condemned and prohibited:

* *Le mie preghiere*, compiled by Monsignor Pietro Bignami, Honorary Canon of the Church of Milan. Milan, 1866. Decree, April 12th, 1867.

* *Storia Generale delle storie*, by Gabriele Hosa. Milan, 1863. Decree, December 2nd, 1867.

* *Le Jésuite*, by the Abbé ***, author of *Le Maudit* and *La Religieuse*. Paris, 1865. Decree, *cod.*

* *El espíritu del Evangelio comparado con las practicas de la Iglesia Cattolica*, by Juan Francisco La-Riva. Lima, National Printing Office, by M. Yillarcal, 1867. Decree, *cod.*

* *Lamentations*, by Pierre Augustin Métay, French Cultivator. Genoa, Jacques Caorsi Printing Office, 1867. Decree, Sacred Office, Session IV, July 31st, 1867.

* *Rapports de merveilleux de M. Cahanille B... avec le monde, surnaturel*, by the Abbé M. I. C. Thörey, priest of the Diocese of Sens. Paris, 1866. Decree, Sacred Office, Session IV, August 22nd, 1867.

* *Auctor laudabiliter se subiecit, et opus reprobavit. Saggio di preghiere

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per la Chiesa cattolica apostolica italiana*, compiled by the National Emancipation and Mutual Aid Society of the Italian Clergy. Naples, Perrotti Printing Establishment, 1866. Decree, Sacred Office, Session IV, August 29th, 1867.

Therefore, no one, of whatever rank or condition, shall henceforth dare to publish, print, read, or retain these works in any place, in any language, or in any manner, but they shall be brought to the attention of the Ordinary of the place, as recorded in the Acts, Volume III, Section XXX. Or, 21.

[*Latin ed. p. 322*]

DECREE. Those who are inquisitors of wickedness must deliver [the accused] to them, under the penalties indicated in the Index of prohibited books. To which, having been secretly informed by me, the undersigned S. I. C., the MOST HOLY LORD OUR PIOUS POPE, having approved the Decree, commanded it to be promulgated. In whose faith, etc. Given in Rome on the 13th of December, 1867. ANTONINUS Cardinal DE LUCA, Prefect. In place of the Seal, Fr. ANGELUS VINCENTIUS MODENA, of the Order of Preachers, Secretary of the Congregation of the Secret. We refer to the following Apostolic Letters, which have already become publicly valid law, in which censure is expressed against the Most Reverend Cardinal Hieronymus D'Andrea, who, however, upon returning to the City, publicly repudiated what he had done wrongly: of whose declaration of repudiation, which we have just learned, we shall refer in the following document. FROM THE SECRETARY'S OFFICE, APOSTOLIC LETTERS. PIUS PP. IX. FOR THE SAKE OF FUTURE MEMORY. On the 12th of June, 1866. "To all of the flock of the Lord, it is incumbent upon Us, as successors of the Blessed Peter, if God so wills, to require and demand that we diligently watch over the security of that very flock, and that we devote every effort to ensure that the sheep are not lost, which Christ the Lord redeemed, not with corruptible gold or silver, but with the price of His Most Holy Blood. This concern troubles Us day and night; this reminds Us, and incites Us, to use our Apostolic authority if We see that a division of salvation is being created within the flock of the Lord in any diocese. Therefore, since these things are so, We turn Our particular cares and studies to the Episcopal Church of Sabinensem, and to the Abbey of Sublaquensem, to be governed and cared for by Hieronymus."

[*Latin ed. p. 323*]

APOSTOLIC LETTERS. 328. To D'Andrea, who, having been co-opted by Us into the most esteemed College of Cardinals, and who, while neglecting his duties, has proved to be a source of offense to men, especially to those of both his dioceses, for he, having for almost three years implored Us to grant him leave to come to Naples for the sake of restoring his health, which we deemed should be denied to him for very serious reasons, and we urged

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him to seek out other cities and shores, not far from Italy, which are equally renowned for their healthful air, where he might restore his health, and we removed the difficulties that might have hindered him in undertaking a longer journey. When it seemed that he had acquiesced in Our will, suddenly, in the month of June of the year 1864, without Us knowing or suspecting anything, he fled from the city of Naples. We received this sudden departure with great sorrow and displeasure, as it was an indication of a mind that was not obedient to Us and to the Apostolic See, and it seemed to be a scandal not insignificant to the faithful. Therefore, not many months having passed, we took steps to bring to the mind of the aforementioned Cardinal the multiple and grave penalties imposed by our predecessors, the Roman Pontiffs, and especially by Innocent X, in his Constitution "Cum juxta," concerning Cardinals who, without declaration of a judge, incur these penalties if they have not first obtained permission from the Roman Pontiff for the time being, for any reason, so that it may seem just and legitimate, if they have dared to transfer themselves outside the temporal jurisdiction of the Church. But since we saw that he remained stubbornly committed to his purpose, we considered it necessary to decree certain things through the Congregations of Cardinals, entrusted with interpreting the Tridentine Decrees and with expediting the affairs of Bishops and Regular Canons, which would both declare the offense to Our mind and encourage him to adopt better courses of action. However, despite all this, he persisted in defending his actions in certain published writings, and he poured forth the venom of his bitterness in accusations and calumnies against certain most esteemed Cardinals and respected prelates, whom he claimed were hostile to him; and indeed, he seemed to harbor certain sentiments that we judge to be reprehensible. And this manner of acting is entirely unworthy of a Catholic prelate, and especially of one who had been chosen for the College of Cardinals, and who was bound by a special oath of fidelity and obedience to this Holy See.

[*Latin ed. p. 324*]

824. APOSTOLIC LETTERS. He has grieved all the good, but has stirred up the wicked in religion; we had, indeed, waited long enough, saying that he should return to good sense; but nevertheless, since we, bearing in this world the place of Him who is patient and merciful, and rich in mercy, have still striven to bring back the erring to the right path, we have sent him letters written by our own hand, in which, with paternal charity, we admonished him to come to his senses, and to consider in his mind how much guilt he was incurring, and we urged him earnestly to recognize his error and to come to us, as to the bosom of a father, and to repair the grave scandal he had imported into the Catholic world, and especially into the care of those entrusted to him. But he, unmoved and hardened, has not feared to write back letters, in which there is nothing more arrogant,

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nothing more offensive to us, and nothing more injurious that could be said in the person of our humility to this Apostolic See. Therefore, since we seemed to be about to abandon the limits of patience and mildness in our Apostolic office, unless we should strive to restrain this great scandal with our supreme authority and to drive it away from the common ruin of souls. But before making any further decision, we entrusted the whole matter to our Venerable Brothers, the Cardinals of the Holy Roman Church, to be considered and deliberated upon. And these, after a diligent examination of the facts, unanimously condemned, and were greatly saddened by the grave injury inflicted upon us and the Apostolic See by their colleague, and then they pronounced judgment, according to the Sacred Canons and the Constitutions of our Predecessors, the Roman Pontiffs, concerning the governance of both the dioceses of Sabina and Subiaco, that it should be administered for the good of the people by an Apostolic Administrator, until the aforementioned Cardinal Hieronymus D'Andrea recovers his senses, and upon returning to the city, he obeys us and the Apostolic See, and renders obedience. Therefore, following the example of our Predecessors, for whom there is nothing more important than the eternal salvation of souls, and with the advice of our Venerable Brothers, the Cardinals of the Holy Roman Church, with our certain knowledge and mature deliberation, we exercise all jurisdiction over the aforementioned Cardinal Hieronymus D'Andrea.

[*Latin ed. p. 325*]

Apostolic Letters. We remove and interdict, both in the Church of Sabina and in the Abbey of Subiaco, all matters, both spiritual and temporal, until We or this Holy See deem otherwise, and We expressly command that neither of them dare to touch any part of the administration or governance in either diocese. Furthermore, We choose, constitute, and appoint the Venerable Brother Francis Gandolfi, Bishop of Antipatri, and Suffragan of the Church of Sabina, as Administrator of the aforementioned Church of Sabina, and the Venerable Brother Anthony Mary Pettinari, Bishop of Nuceria, as Administrator of the Abbey of Subiaco, to Our and the Holy See's satisfaction, both in spiritual and temporal matters, by these Our letters, with all and singular faculties, honors, and rights that belong to this office, either by privilege, or by usage and custom. Therefore, We grant to the aforementioned Bishops the faculty to administer all and singular things within their respective dioceses that pertain to order, and that pertain to jurisdiction, and also to appoint one general Vicar, endowed with the faculties that they deem most expedient in the Lord. Moreover, We grant to both Administrators the power to confer parishes and other ecclesiastical benefices, whether simple or requiring personal residence, both those actually vacant, and those that will become vacant in the future during the time of their administration, the collation of which

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pertains to the local Ordinaries, saving, however, the regulations, and saving the affections and reservations of the Apostolic See. We strictly command Our beloved sons, the Cathedral Chapter and Canons, both of the Episcopal Church of Sabina, and of the Abbey of Subiaco, as well as the rest of the clergy and people of both dioceses, to receive and admit the aforementioned prelates as Administrators appointed by Apostolic authority, and to show them full reverence and obedience. As for the fruits and revenues of both tables, how they are to be disbursed to the aforementioned Administrators, We will indicate by other letters. Finally, We earnestly exhort the aforementioned prelates to strive to fulfill the office of a good shepherd in their respective dioceses entrusted to their administration, and not to neglect to visit them according to the canonical sanctions, and to heal with all diligence and care those evils that they may perceive to exist. This is Our will.

[*Latin ed. p. 326*]

326 APOSTOLIC LETTERS. We command and decree that these Letters, even if those concerned should not agree, and for any other reason whatsoever, may never at any time be challenged on the grounds of a flaw in the wording or interpretation, or due to any deficiency in Our intention, etc. The customary concluding phrases follow. "Given at Rome, near Saint Peter, under the Fisherman's Ring, on the 12th day of June, in the year 1866, in the twentieth year of Our Pontificate." N. Card. PARACCIANI CLARELLI. PIUS PP. IX. On September 29, 1867. "Although We, bearing in this world the role of Him who is patient and merciful, readily follow the path of kindness and clemency, nevertheless, because We understand that judgment and justice are also part of the Apostolic office, We exert the full force and power of Our supreme authority to eradicate those scandals that threaten the faithful, and to restrain their authors. Having considered this matter since the previous year, 1866, through similar Breves Letters, issued on the 12th of June, after having heard beforehand Our Venerable Brothers, the Cardinals of the Holy Roman Church, and with their counsel, We have suspended and prohibited all exercise of jurisdiction, both spiritual and temporal, in the Church of Sabina, as well as in the Abbey of Sublaque, concerning Hieronymo D'Andrea, because in the month of June of the year 1864, he suddenly abandoned the City, despite just reasons presented to Us, and urged by others to seek a place where he might restore his health, and fled to Naples, where he still remains, in violation of the decrees of the Sacred Councils concerning the residence of Bishops, and in contravention of the decrees of Our Predecessors, the Roman Pontiffs, especially the Constitution of Benedict XIV, which begins "Ad universae christianae reipublicae," in which it is clearly stated that it is not permitted for Bishops to leave their Diocese for any legitimate reason, even to protect or restore

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their health, unless first..."

[*Latin ed. p. 327*]

APOSTOLIC LETTERS. It has been expressly granted by the Roman Pontiff then in office. Our predecessors, and also Our Roman Pontiffs, have likewise decreed with no less severity concerning the residence of Cardinals, and in the first place, Innocent X, in his Constitution "Cum iuxta," issued on February 19, in the year 1646. For, since the Cardinals of the Roman Church are called to constantly attend to the affairs of the Holy See, and to devote their care and effort to the Pope in the governance of the entire Church, he imposed grave and numerous penalties upon them, to be incurred by the very act, and without the declaration of a judge, if they should dare to leave the civil jurisdiction of the Church for any reason whatsoever, even if it be a public and favorable one, and if this is not expressly approved and permitted beforehand by the Roman Pontiff then in office. Indeed, we waited long and much, yet in vain, for this disobedience and irreverence towards Us and the Apostolic See, which was so boldly displayed by that Cardinal, and for the sacrilegious disregard he showed for the sanctions of the sacred Canons and the Pontifical Constitutions; we waited in vain for him to repent and seek forgiveness for his errors. We endeavored to warn him through the Cardinal entrusted with public affairs, and then through the Cardinal Dean of the Sacred College, concerning the most serious penalties to which he was subject according to the sacred Canons and the Pontifical Constitutions. However, he, paying no heed to the warnings given, stubbornly maintained that his action was without fault, and he did not hesitate to publish writings on the matter, in which he unjustly condemned and insulted the names and reputations of several most eminent Cardinals and most distinguished prelates, disregarding all duty of humanity and even of Christian charity. Such license in acting and writing was most unbecoming a man who was adorned with the dignity of Cardinal and Bishop, and it caused Us the greatest pain. But, lest we abandon any effort to move his mind, and lest any aspect of Our benevolence and clemency be lacking in this matter, We deemed it necessary to send him letters written by Our own hand, in which We urged him to consider again and again how grave a scandal he had caused to the faithful, and how much guilt he therefore incurred, and to consider the eternal salvation of his own soul.

[*Latin ed. p. 328*]

328 APOSTOLIC LETTERS, advising him to return to the right path lest he delay; and finally, we declared that, unless he willingly and obediently heeded and followed our paternal admonitions, we would be compelled, by the very office of our Apostolic ministry, to assume the role of judge. But, not relenting in his obstinacy and arrogance, he responded so impudently

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and injuriously that one could scarcely expect such behavior from a man who has no faith and obedience towards the Apostolic See. "Considering the grave and reprehensible offenses committed in Vico Equense, and having reviewed the Constitution of our predecessor, Pope Innocent X, it is clear that the severity of the censure imposed by us was entirely justified. Indeed, in that same Constitution, our aforementioned predecessor established and decreed that all and each Cardinals of the Holy Roman Church who, without having obtained permission from the Roman Pontiff for the time being, transfer themselves outside the temporal jurisdiction of the Church, shall immediately, without any prior declaration or judgment by any other authority, be deprived of all privileges, immunities, exemptions, and indulgences granted by the Apostolic See; and furthermore, they shall likewise incur the penalty of being barred from entering churches; and also they shall be subject to other penalties determined in any way by the Roman Pontiffs, and even to the sequestration of all and each fruits, revenues, and emoluments, of whatever offices and duties, even those of higher rank and granted by consistory, and especially those designated as benefices, such as monasteries and other secular benefices of any order, regular or otherwise, having either spiritual or temporal jurisdiction, as well as pensions on any ecclesiastical fruits, against said Cardinals, even without any citation or declaration. And if the aforementioned Cardinals, within six months, which is the period to be counted from the day of their departure, having been given three canonical warnings and peremptory deadlines, do not personally and effectively return to the Roman Curia, they shall, in addition to the aforementioned penalties, and cumulatively with them, incur the penalty of the deprivation of all and each fruits, revenues, and emoluments, of whatever offices and duties, even those of higher rank and granted by consistory, and especially those designated as benefices, such as monasteries..."

[*Latin ed. p. 329*]

APOSTOLIC LETTERS.

Concerning the offices of 329 monasteries and other benefices, both secular and of any regular order, which are held by certain individuals through title, commendation, administration, or any other means, as well as pensions granted to the aforementioned Cardinals from ecclesiastical revenues. If, after the aforementioned six months, the aforementioned individuals do not, within the immediately following six months, personally appear before the Roman Curia, and with effect, after three canonical warnings and peremptory deadlines, then, in addition to the aforementioned penalties, they shall incur the penalty of deprivation of all the aforementioned offices, functions, even those of greater importance and granted by the Consistory, and of any benefice, both secular and regular, without further declaration.

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If, however, the aforementioned Cardinals do not appear personally before the Roman Curia, within the immediately following three months, after three canonical warnings and peremptory deadlines, and thus within a total of fifteen months, then it shall be determined that they may incur other penalties, even those of greater magnitude and severity, and worthy of individual mention, to be declared by the Roman Pontiffs, and even up to the penalty of deprivation of the Cardinalate itself.

Indeed, at the end of the month of September in the year 1865, after fifteen months had elapsed since the aforementioned Cardinal had illicitly withdrawn from the civil status of the Church, and without being moved by any warnings or exhortations, he persisted in his obstinacy. He was, therefore, truly deserving of being deprived of the honor of the Cardinalate, and of the See of Sabina, and of other benefices which he held, according to the canonical sanctions and the aforementioned Constitution of Innocent X. However, in order to leave him a space of time to collect himself, to adopt better courses of action, and in order to safeguard the security of the faithful of Sabina and Subiaco, for whom that pastor had become a stumbling block and a rock of scandal through those very bad examples, and without in any way derogating from the aforementioned Constitution of Innocent X, we subjected the aforementioned Cardinal to a mere suspension from all jurisdiction over the Church of Sabina and the Abbey of Subiaco, and we appointed vicars to them, who would administer the dioceses entrusted to them according to Our will and the will of the Holy See. This penalty of suspension, which was imposed,

[*Latin ed. p. 330*]

330 APOSTOLIC LETTERS. The offense was far greater than the gravity of the fault demanded, and we had hoped that he would be converted to a good mind and will. But, nevertheless, the hope conceived was frustrated; for he proceeded to such temerity as to publicly challenge our Apostolic Letters to a more informed Pontiff; and, in order to evade, if possible, the authority of the Apostolic See, he employed a kind of subterfuge that those who sought to reject the judgment of the Holy See often use. Our predecessors, the Roman Pontiffs, rightly rejected and condemned this appellation. And in such a case, the challenge was utterly absurd, because the aforementioned cardinal's admissions were so clearly established, so certain, and so thoroughly investigated, that they could not be concealed by any tergiversation.

And he did not stop there, but, having sent letters to both the clergy, and to the people of Sabina and Subiaco, and indeed having disseminated them widely, he asserted, and defended, that our Apostolic Letters, by which he was forbidden to exercise his jurisdiction, were utterly invalid, and of no force or effect whatsoever; that the administrators appointed by Us lacked all legitimate authority, and that they should be considered as

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having been secretly and forcibly introduced into the flock; that he alone was the legitimate pastor, and that obedience should therefore be rendered to him. And he went so far as to boldly request, in a letter printed and published, that we should revoke our aforementioned Apostolic Letters, as being unjust and of no force or effect; that we should cease to unjustly harass him; and that he would fully exercise the jurisdiction forbidden by Us in both dioceses, both in the internal and external forum.

What is more, in his writings published for all to see, he added many things intended to undermine and diminish the authority of the Apostolic See, and, without the slightest fear of offending, he violated the sanctity and dignity of the Apostolic See in the person of Our humility. What is more, he publicly commended newspapers that were infected with wicked doctrines, and were greatly opposed to the Holy See, and that attacked the civil authority of that See, and thus he made it clear that he agreed with certain pamphlets published by his supporters, which contained false and utterly reprehensible propositions?

[*Latin ed. p. 331*]

APOSTOLIC LETTERS. 331 "These matters are indeed grave, and deserving of condemnation; yet, above all, they are utterly intolerable, in one who, having been invested with the dignity of Bishop and Cardinal, is bound to defend and propagate the Catholic doctrine, to show reverence towards the Holy See of Saint Peter, and to preserve and promote its honor, rights, and privileges with all his power, as he was obligated by the oath of fidelity he took upon receiving the insignia of the Cardinalate. Therefore, since more than three years have passed since the aforementioned Cardinal, through his stubbornness and other excesses, has shown no hope of reforming himself, and since, through writings published for the public, he disturbs and troubles the minds of the faithful, and acts in a perverse manner; and since he abuses the dignity with which he is adorned, to the detriment of religion and to the disgrace of the Roman Church; and since this evil spreads and grows ever wider, We, who have been appointed guardians of the house of Israel, must certainly take measures and prevent other dangers that we foresee may threaten the Church of God. Therefore, compelled by the very duty of pastoral vigilance, although unwillingly, We are forced to apply the severity of the penalties prescribed by the Sacred Canons and Pontifical Constitutions against such contumacious individuals; indeed, We must consider the very true words of our predecessor, Saint Siricius, addressed to the Bishop of Tarragona, Himerius: 'It is necessary that the wounds, which have not felt the cautery, be cut away with iron.' Nevertheless, still wishing to act with greater mildness towards the aforementioned Cardinal, after hearing our Venerable Brothers, the Cardinals of the Holy Roman Church, We have deemed it advisable to suspend the application of these severe penalties, and to suspend him from the

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insignia and privileges of the Cardinalate at this time. Wherefore, with certain knowledge and mature deliberation, and with the advice of those Cardinals, by Our Apostolic authority We suspend the aforementioned Hieronymus D'Andrea, Cardinal, and declare him suspended from all honors, insignia, and rights of the dignity of Cardinal, and specifically from the active and passive vote in the election of the Supreme Pontiff, so that such penalties should apply to him, and he should not be summoned to the Conclave, nor admitted to it; and We absolutely prohibit the summoning and admission of him and those Cardinals to the College of Cardinals, completely removing any ability to vote or give a vote for said election, and We exclude him from the Conclave."

[*Latin ed. p. 332*]

332 APOSTOLIC LETTERS. We invoke the faculty, which, by any title and by reason of being contained within the body of the law, or by the force of any of the Constitutions of Pope Pius IV, Pope Gregory XV, and other of Our Predecessors, may have been alleged, to which We derogate fully and completely, and We wish and command that they be considered as derogated, all of which, both individually and collectively, We hold to be expressly stated and contained herein. Furthermore, We assign to the aforementioned Cardinal D'Andrea a peremptory term of three months, to be counted from the date of these Our Letters, within which he must appear before Us and this Apostolic See, not through a procurator but personally and effectively, to humbly receive Our mandates. Should this term expire without effect, We shall proceed to the declaration of the deprivation of his Cardinalate, of his episcopal see of Sabina, of the Abbey of Sublaque, and of all other benefices of which he enjoys the fruits. "We wish and command this, deciding that these Letters, even if those concerned have not agreed to them, and for any other reason, may never at any time be challenged on the grounds of a flaw of surreptitiousness or a defect in Our intention, but that these present Letters shall be firm, valid, and effective, and shall have and obtain their full effect, and shall be inviolably observed by all to whom they pertain or will pertain; and that, acting in such a manner and in no other way, those with any authority and power shall be deprived of the faculty of judging and interpreting otherwise, and shall be judged and defined accordingly, and that it shall be void and null if, in any way, anyone with any authority should knowingly or unknowingly attempt to alter them. Notwithstanding Our regulations and those of the Apostolic Chancery regarding matters of law, and notwithstanding any Constitutions or other ordinances, even those promulgated in General Councils, and any privileges and indulgences, granted to any person, even those holding the dignity of Cardinal, and repeatedly confirmed and renewed, and all other things to the contrary, although specifically and individually worthy of mention, to all of which... We fully and expressly derogate." Given at Rome, at St.

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Peter's, under the Fisherman's Ring, on the 29th of September, in the year 1837. Pope XXIX. N. Card. PARACCIANI CLARELLI.

[*Latin ed. p. 333*]

APPENDIX I V. CONSTITUTION OF INNOCENT X, CONCERNING THE DEPARTURE OF CARDINALS OF THE HOLY ROMAN CHURCH FROM THE ECCLESIASTICAL STATE WITHOUT THE LICENSE OF THE SUPREME PONTIFF.

INNOCENT, BISHOP. Given on this 19th day of January, in the year 1646. For the sake of future memory.

"Since, according to the disposition of the Sacred Canons, Our Venerable Brothers, the Cardinals of the Holy Roman Church, are called to the service of the Apostolic See, to assist the Roman Pontiff for the time being personally, and to contribute to the governance of the universal Church, and are considered a part of the body, and members of the Pontiff himself, and are assigned to the Churches of the Alma Urbs for the title of their Cardinalate, or their Diaconate, and therefore are obliged to reside with the same Roman Pontiff in the Roman Curia, it has rightly been considered by some of Our Predecessors, that it is most unbecoming and detestable, that Cardinals should abandon their place and residence, so high and important, contrary to the duty of their office, and that they are culpable for departing from the ecclesiastical state without the license of the Roman Pontiff for the time being, and that various Constitutions and Decrees have been issued by the Roman Pontiffs for the time being, prohibiting such departures under various penalties.

§ 1. "Because, indeed, we are taught by experience that sufficient provision has not been made, and lest this pernicious evil should grow daily, we have decided to apply more suitable remedies. By our own authority, and from certain knowledge and mature deliberation, and with the fullness of Apostolic power, by this Our perpetual Constitution, we establish, decree, and declare, that all and each of the Cardinals of the same Holy Roman Church, now and for the time being, who, without having obtained from Us, and from the Roman Pontiff for the time being, permission, should in the future transfer themselves outside the temporal jurisdiction of the ecclesiastical state, shall immediately, and by that very fact, without any prior declaration by a judge or another, be deprived of all and every privileges, immunities, exemptions, and indulgences, including the conferring of ecclesiastical benefices, as well as the transfer of pensions, or ecclesiastical fruits, even those reserved in lieu of pensions, and of the power to testify, and to dispose of themselves in any way granted by the Apostolic See, and shall be considered as such.

§ 2. "Furthermore, they shall also incur the penalty of being forbidden to enter the Church, and that equally by that very fact, without any declaration. And they shall also be subject to other penalties, to be determined

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by Us, and by Our Successors, the Roman Pontiffs, in any way whatsoever, including the sequestration of all and each of the fruits, revenues, profits, rights, acquisitions, and emoluments of all kinds, as well as of all offices and duties, even those of greater importance, even those granted by the Consistory, and with special note and expression of those which, in any way, even under a truly burdensome title, such as monasteries, and other benefits of any kind."

[*Latin ed. p. 334*]

834 APPENDIX IV. Furthermore, the temporal possessions, and those of any Order, including the Order of St. Anthony of Vienna, and the Regular Order of the Hospital of St. John of Jerusalem, which possess jurisdiction, whether spiritual or temporal, obtained through title, commendation, administration, or any other means whatsoever, and which they possess and will possess for the time being, as well as pensions derived from ecclesiastical revenues, for any reason whatsoever, including those for sustenance and other purposes assigned to them in any way, and ecclesiastical revenues, even those reserved to them in place of pensions, may, even without any citation, notification, or declaration, become due and payable. And if the aforementioned Cardinals, after six months, which we assign for three canonical warnings, peremptory delays, and deadlines, calculated from the day of their departure, do not personally and effectively return to the Roman Curia, they shall incur, in addition to the aforementioned penalties, and cumulatively with them, the penalty of deprivation of all and each of the fruits, revenues, emoluments, rights, acquisitions, and benefits of whatsoever kind, including any offices and duties, even those granted by the Consistory, and those of special and distinguished rank, which are obtained in any way, even through a burdensome title, such as monasteries and other secular benefices, and those of any Order, including the Order of St. Anthony of Vienna, and the Regular Order of the Hospital of St. John of Jerusalem, which possess jurisdiction, whether spiritual or temporal, obtained through title, commendation, administration, or any other means whatsoever, and which they possess and will possess for the time being, as well as pensions derived from ecclesiastical revenues, for any reason whatsoever, including those for sustenance and other purposes assigned to them in any way, and ecclesiastical revenues, even those reserved to them in place of pensions, freely and without any acquisition of any right by the titulars, shall be distributed and disposed of at the discretion of the Roman Pontiff, who is present at that time, freely and without any acquisition of any right by the titulars, as stated above. If, after the aforementioned six months, for another six months immediately following, which we likewise assign for three canonical warnings, peremptory delays, and deadlines, they are still absent, and if, at the end of these last six months, they do not personally and effectively return to the Roman Curia, in addition to all and

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each of the aforementioned penalties, they shall also incur the penalty of deprivation of the aforementioned offices and duties, even those of greater rank, even those granted by the Consistory, and those obtained in any way, even through a burdensome title, as mentioned above, including monasteries and secular benefices, to the extent qualified as above, and of the fruits and pensions, even those reserved in place of pensions, freely and without any acquisition of any right by the titulars, shall be distributed and disposed of at the discretion of the Roman Pontiff, who is present at that time, freely and without any acquisition of any right by the titulars, as stated above. This shall occur immediately, and without any further declaration. §. 3. Furthermore, those Cardinals who, before the promulgation of the present Constitution, had already, without our aforementioned permission, transferred themselves outside the temporal jurisdiction of the Church (saving and preserving all that has been and will be done by Us, or by others by Our mandate, in any way whatsoever), if, within six months from the day of public-

[*Latin ed. p. 335*]

APPENDIX IV. Concerning the present Constitution, to be enacted here in the City, as will be explained below, we establish the following procedures, which we likewise assign for three canonical warnings, peremptory delays, and terms, and which, personally and effectively, if not observed by the Roman Curia, will immediately and without further declaration result in the penalties of being barred from entering the Church, and the deprivation of the faculty of testifying and disposing of anything, and of all the aforementioned privileges and indulgences, and of the fruits, offices, and duties, even those granted by consistory, and even those granted with burdensome conditions, and of pensions, monasteries, and all other things expressly mentioned above. And if, within the aforementioned six months, the Cardinals, who, as mentioned above, have already left said ecclesiastical state without our permission, do not, within the following six months, which we likewise assign for three canonical warnings, peremptory delays, and terms, as above, personally and effectively return to the Roman Curia, they shall, in addition, incur the penalty of the deprivation of the aforementioned offices, and of benefices, even those granted by consistory, and even those granted with burdensome conditions, and of monasteries, benefices, and all other things expressly mentioned above, in equal measure.

§. 4. "But if those Cardinals who have already left the ecclesiastical state without our permission, as stated above, and those who, in the future, as mentioned above, may be compelled to leave the same ecclesiastical state without our permission, and without the permission of the then-existing Roman Pontiff, do not, within the following three months, which we likewise assign for three canonical warnings, peremptory delays, and terms, and thus, in total, within fifteen months, personally and effectively return

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to the Roman Curia, we decree that they may be subjected to other penalties, even of whatever magnitude and severity, and which may be declared by Us and Our Successors, the Roman Pontiffs, with individual mention and special designation, and even up to the penalty of the deprivation of the dignity of the cardinalate, inclusive. And furthermore, so that, both in the present and in all future times, whenever any of the Cardinals, now and for the time being existing, of the same Holy Roman Church, without the aforementioned permission of Us, and of the then-existing Roman Pontiff, as above, may have left the aforementioned state, the same Cardinal shall be replaced and substituted by another Cardinal, or Prelate, or any other person, to perform the offices, duties, legations, prefectures, governments, protections of Orders or religious Congregations, or Archiconfraternities or confraternities, colleges, monasteries, hospitals, and other pious places whatsoever, as well as the administration of a title, or diaconate, and even of his own cardinalate, and of whatever other churches, even cathedrals, metropolitan churches, and patriarchal churches, with respect to which he exercises jurisdiction, and of whatever monasteries, and other ecclesiastical benefices, as mentioned above, and of other things of whatever qualification, and of their spiritual and temporal jurisdiction, and generally, in all matters, even those of special significance and individual expression, which have been assigned and entrusted to the Cardinal, or Prelate, or any other person by the aforementioned Apostolic See, notwithstanding."

[*Latin ed. p. 336*]

336 APPENDIX I V. By any means, whether through faculties, licenses, and indulgences previously granted, or to be granted in the future, whether by similar means, or even by a consistory, or in any other way whatsoever, We hereby declare, decree, and establish that no one can, and shall not, perpetually possess such faculties, licenses, and indulgences. We further decree that the holders of the aforementioned faculties, licenses, and indulgences, from the day on which they leave the aforementioned territory without having previously obtained the aforementioned license, shall have those licenses revoked, annulled, and rendered null and void, as if they had never been granted.

§. 5. We do not wish that anyone should be excused from the penalties, whether those expressly mentioned above, or those declared in any way by Us, or by Our successors, the Roman Pontiffs, under the pretext, or on the grounds of any service, or business, of any princes, even of an Emperor, or of Kings, or of public affairs, kingdoms, provinces, or on the grounds of any order, or mandate, of theirs, or of them, made or to be made, at any time, or in any way, or on the grounds of distance, or on the grounds of any other cause, or occasion, even a public one, or any other favorable circumstance, even if it is within the body of the law, or of the Apostolic Constitutions, unless such cause, or causes have been alleged before Us, and the Roman

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Pontiffs for the time being, and have been proven, or have been proven, and expressly admitted. Furthermore, We do not wish that anyone, even through the College of Cardinals, or even when the Apostolic See is vacant, can be absolved, or even restored through the means of grace, or justice, but We reserve to Ourselves, and to the Roman Pontiff for the time being, all forms of knowledge, absolution, remission, restoration, reintegration, rehabilitation, and any other dispensation, or arrangement concerning the foregoing, and each of them, with respect to all.

However, by these presents, We do not intend to derogate in any way from the Constitution issued by the Most Blessed Pope Urban VIII, Our predecessor, concerning the residence of Patriarchs, Primates, Archbishops, and Bishops, even Cardinals.

§. 6. We decree that these present letters, and all the things and particulars contained therein, concerning any fraud, deception, or any nullity, or invalidity, due to a defect of intention, or any other substantial defect, even if those who are, or claim to be, interested in the foregoing, especially the aforementioned S.R. Cardinal, have not consented to them, nor have been called and heard, and that all formalities, and other things to be observed, and fulfilled, have not been observed, and fulfilled, and that the causes for which these presents were issued have not been sufficiently, or even in any way, justified, and under any other pretext, occasion, and heading, even within the body of the law, and from any other, however reasonable, just, and privileged cause, etc., are pursued with the utmost diligence.

[*Latin ed. p. 337*]

337 FROM THE PROCEEDINGS OF THE COLLEGE. MINUTES OF THE SECRET CONSISTORY HELD ON JULY 12, 1867. IN WHICH OUR MOST HOLY LORD POPE PIUS IX CONFIRMED THE ELECTION OF ANTONIUS PETRUS, PATRIARCH OF THE ARMENIANS OF CILICIA, WHO WAS PRESENT IN THE CURIA, AND GRANTED HIM THE SACRED PALLIUM.

"After the most recent Armenian Patriarch of Cilicia, Gregory Peter VIII, had passed away, and provision had been made for the legitimate and certain governance of the vacant Patriarchate by a Patriarchal Apostolic Vicar established by Our Most Holy Lord, POPE PIUS IX, the bishops of the Patriarchate of Cilicia convened a synod in Armenia, at the church of the Assumption of the Blessed Virgin Mary on Mount Lebanon, on the fourteenth day of the month of September of the year 1806, together with the Most Reverend Father Joseph Valerga, Patriarch of Jerusalem and Apostolic Delegate for Syria; whom His Holiness had also ordered to be present at this assembly of bishops, endowing him with extraordinary authority. Then, those same sacred prelates, hoping that the Armenian province of Constantinople would be united with the Patriarchate of Cilicia by the benevolence of the Holy See, and that, for this reason, unity and order would be restored

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in both jurisdiction and discipline, petitioned for the Most Reverend Father Anthony Hassun, Archbishop Primate of the Armenians of Constantinople, to be appointed Patriarch. He was received among them according to their custom, and was now called Peter IX. Then, letters were given for the records, in Volume III, page XXXI, 22."

[*Latin ed. p. 338*]

338 FROM THE CONSISTORY ACTS. Our Most Holy Lord, having completed, as mentioned above, the election, also sent a signed document (i), "TO THE MOST BLESSED FATHER." We, the Bishops of the Armenian Patriarchate of Cilicia, humbly prostrate ourselves at the feet of Your Holiness, and signify that, fortified by the Apostolic blessing of Your Holiness, we have convened in Lebanon to duly carry out the canonical election of the successor to our deceased Patriarch Gregory Peter VIII. And after diligently considering both the spiritual and temporal benefits to the Armenian Catholic Church and to our entire nation, resulting from the union of the two jurisdictions, namely the Patriarchal and the Primatial, after prior prayers, and after the celebration of the Holy Sacrifice, which we and our clergy offered in order to obtain the light of divine grace, we spontaneously and with unanimous hearts elected and proclaimed the Most Reverend Anthony Hassun, the Primatial Archbishop of Constantinople, who was given the name Peter IX, as Patriarch of Cilicia and successor to the rights and privileges of our late Patriarch. We humbly present to Your Holiness the document of the canonical election, which is attached to these letters; and we entrust to the Most Reverend Joseph Valerga, Patriarch of Jerusalem and Apostolic Delegate to Syria, the task of carefully narrating how the aforementioned election was carried out. "Rejoicing" that such a beneficial work for the Armenian Catholic Church could be accomplished by us, we implore Your Holiness to deign to complete this work with the Apostolic blessing and confirmation. Indeed, the Provident God, who has accomplished so many glorious deeds and things worthy of eternal remembrance under Your Holiness's guidance of the Pontifical See, has certainly reserved the ordination of the Armenian Catholic nation for Your Beatitude, who will forever extol the benefits of Your paternal care, after having attained, through Your wisdom, dignity and order, both in terms of jurisdiction and in matters of discipline. "These are our fervent wishes, this is the purpose of our deliberations. Meanwhile, we express our desire that all of this, which we write from the authentic acts, may be translated into the Armenian language and published by means of printing."

[*Latin ed. p. 339*]

FROM THE CONSISTORY ACTS. 339. The Patriarch, upon first entering Lebanon, shall be elevated to the patriarchal seat with the ceremonies proper to the national rite, and this for the honor of that See, and for our

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consolation, who elected him. Again, we humbly implore the Apostolic Blessing, having approached the sacred feet. From Mount Lebanon, September 15, 1866. Your most humble servants and most obedient sons: Melchior Nasarian, Archbishop of Mardensium, Patriarchal Vicar; Gregory Balithian, Archbishop of Alep; Ignatius Kalibgian, Archbishop of Amasia; Peter Apelian, Archbishop of Marasc; James Bahtiarian, Archbishop of Diarbekirien; John Hagian, Archbishop of Caesareae; Leo Korkoruni, Archbishop of Melitenus; Basil Gasparian, Archbishop of Cypri.

FORMULA OF ELECTION. "We, the undersigned, assembled together in the principal church of this Patriarchate at Bzommar, in the year of our salvation 1866, on September 14th, having carefully deliberated and with free will, canonically elected as Patriarch of Cilicia, the Most Reverend and Most Reverend Lord Anthony Hassun, Primate of Constantinople, whom we name Peter the Ninth, as successor to the blessed memory of Gregory Peter the Eighth.

Melchior Nasarian, Archbishop of Mardensium, Patriarchal Vicar.

Gregory Balithian, Archbishop of Alep.

Ignatius Kalibgian, Archbishop of Amasia.

Peter Apelian, Archbishop of Marasc.

James Bahtiarian, Archbishop of Diarbekirien.

John Hagian, Archbishop of Caesareae.

Leo Korkoruni, Archbishop of Melitenus.

Basil Gasparian, Archbishop of Cypri.

"Furthermore, letters on the same matter were also sent to the Sacred Congregation for the Propagation of the Faith, concerning Eastern Rites, by the same electors, by the Reverend Father Dominus Joseph Valerga, Patriarch."

[*Latin ed. p. 340*]

FROM THE CONSISTORY ACTS. From the Hierosolitan, Pro-Delegate Apostolic of Syria, and from the Most Reverend Father Anthony Hassan. "Having received these [documents], the entire series of acts was submitted for the most careful examination by the aforementioned Sacred Congregation, during the general assemblies of the Most Eminent Fathers held on May 27th and June 1st of this current year, 1867. Their opinion, having been reported to His Holiness through the Secretary of the aforementioned Sacred Congregation, was such that the Supreme Pontiff ordered that this decree be issued by the aforementioned Sacred Congregation." DECREE OF THE SACRED CONGREGATION FOR THE PROPAGATION OF THE FAITH, CONCERNING MATTERS OF THE ORIENTAL RITE. "Following the death of the Armenian Patriarchal Church of Cilicia, through the demise of the Most Blessed Gregory Peter VIII, grave controversies arose concerning the governance of the vacant patriarchate. To resolve these mat-

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ters, His Holiness, Pope Pius IX, through divine providence, appointed the Apostolic Delegate of Syria, the Most Reverend Father Melchior Nasarian, Bishop of Mardin, as a Vicar Apostolic to the aforementioned vacant patriarchate. With this action, and with the consent of the same Holiness, the election of a new Patriarch was undertaken. Therefore, in the Armenian Church of the Assumption of the Blessed Virgin Mary, on Mount Lebanon, with the aforementioned Apostolic Delegate of Syria, the Most Reverend Father Joseph Valerga, the Hierosolitan Patriarch presiding, the Bishops of Cilicia, assembled in a synod, proposed the Most Reverend Father Anthony Hassan, the Armenian Archbishop Primate of Constantinople, whom they called Peter IX, hoping that through this means a swifter path would be forged to obtain from the Apostolic See the union of the ecclesiastical province of Constantinople with the patriarchate of Cilicia; and this plan, and this desire, were humbly expressed to His Holiness in synodal letters. "Having been reported to this Sacred Congregation for the Propagation of the Faith, which presides over Oriental Affairs, and after all matters were diligently and carefully considered, it seemed to His Holiness that this most important matter should be governed, as follows, by His Supreme Authority.

[*Latin ed. p. 341*]

FROM THE CONSISTORY ACTS. 341 "Firstly, His Holiness extinguished the Primatial and Archdiocesan title, by which His Holiness Pope Pius VIII had adorned the Armenian Church of Constantinople with Apostolic Letters, dated July 6, 1830. Then, the Constantinopolitan ecclesiastical province was permanently united to the Armenian Patriarchate of Cilicia; and He willed that the new Patriarch and his successors should enjoy the title of Patriarch of the Armenians of Cilicia; that they should reside in the city of Constantinople, and govern the same Constantinopolitan Church with ordinary jurisdiction. Furthermore, the aforementioned Patriarchate was to be restricted to the same limits as the Patriarchate of Cilicia and the Primatial of Constantinople currently possess." Moreover, he admitted and confirmed the election or nomination of the Most Reverend Father Anthony Hassun, hitherto Archbishop Primate of Constantinople, as Patriarch of Cilicia, healing, as far as necessary, any defects, even substantial ones, that may have occurred in the election, and decreed that he should be adorned with the sacred Pallium. "In order that this almost entirely new constitution of the Armenian Patriarchate may proceed to the benefit of souls, and that the most serious damages, which often arise from uncertain or inadequately established ecclesiastical discipline, may be averted, the Most Holy Lord has seized this opportunity to regulate certain essential aspects of ecclesiastical discipline within the aforementioned Armenian Patriarchate. Therefore, after mature and diligent consideration in the Sacred Congregation for Eastern Rites, the

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same Holiness, exercising the supreme power which He possesses over the entire Church, has enacted the following, and has commanded that they be inviolably observed within the aforementioned Patriarchate." "In the election of the Armenian Patriarch, only Bishops shall have the right to give their vote, excluding entirely clerics and priests who do not possess the Episcopal character. Furthermore, no lay person shall be able to insert themselves in this election, or have any part in it, under any pretext or pretense whatsoever." "The elected Armenian Patriarch shall not be enthroned, nor shall he have any right or jurisdiction in the Patriarchate, unless his election or nomination has first been approved by the Apostolic See."

[*Latin ed. p. 342*]

342 FROM THE CONSISTORY ACTS. "Whatever has been admitted and confirmed according to established custom shall remain in force, with any contrary custom abolished." The Patriarch shall not sell, donate, pledge, or in any way alienate, nor permit others to alienate, properties belonging to the Church or its benefice, or to other churches or pious institutions within the Patriarchate, without the consultation of the Roman Pontiff; and if they act otherwise, they shall incur the penalties prescribed in the Constitution issued by the Most Blessed Pope Paul II on this matter, as is stated in the formula of oath taken by these Patriarchs at their promotion. "Every five years, these Patriarchs shall personally and in their own name visit the Apostolic Thresholds, and shall render an account to the Roman Pontiff then in office concerning their pastoral office, and concerning all matters pertaining to the status of their Patriarchate, as is contained in the aforementioned formula of oath." Regarding the election of Bishops, the Most Holy Father has ordered that this method be observed, so that whenever a diocese within the Armenian Patriarchate becomes vacant, the Patriarch shall first convene a synod of all the Bishops of that Patriarchate; after which, three suitable ecclesiastical men shall be proposed by the same Patriarch and the Bishops assembled in synod, so that the Supreme Pontiff may choose from among them the most worthy and suitable one, and provide for the vacant episcopal See. However, His Holiness does not doubt that these Bishops will strive to propose to the Holy See worthy and truly suitable men, so that the Supreme Pontiff may never be compelled, for the sake of His Apostolic ministry, to elevate to the episcopal dignity and to place in charge of the vacant Church someone not proposed by them. If, however, due to urgent necessity or the length of the journey, all the Bishops are unable to attend the synod convened as above by the Patriarch, at least three Bishops who have jurisdiction over their own dioceses shall convene with the aforementioned Patriarch in the same synod, and those absent shall signify their proposed candidates in writing. The acts of the same synod shall be transmitted to the Holy Congregation for the Propagation of

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the Faith, which deals with Eastern affairs, by the Most Reverend Delegate Apostolic, so that they may be submitted to the supreme judgment of the Supreme Pontiff.

[*Latin ed. p. 343*]

FROM THE ACTS OF THE CONSISTORY. 343 "While thus deciding concerning the election of the prelates of the Armenians, Our Holy Father did not forget the rites of the other Eastern Patriarchates, and He declared that He would, for all of them, first regulate this most important matter concerning the election of bishops; as He openly declared to the Most Reverend Patriarchs of the Maronites and Melchites, and to other Eastern bishops, present in Rome. " These things Our Lord has decreed and commanded, derogating expressly from all contrary things, even those worthy of specific mention, so that the effect of the present may be fully achieved. " Given in Rome, from the halls of the Sacred Congregation for the Propagation of the Faith, on the 10th of July, 1867. " A. Cardinal BARNABÒ, Prefect. L. S. John Simeoni, Secretary. " With these things preceding, on the twelfth of July, a secret consistory being convened, Our Holy Father thus addressed the Most Eminent Fathers: *REVEREND BROTHERS* "Since, on the ninth of January of the past year, the venerable Gregory Peter, Patriarch of Cilicia of the Armenians, departed this life, grave controversies have arisen concerning the governance of that Patriarchal Church. Desirous of advising for the spiritual good of that Patriarchate, We have chosen as its Delegate Apostolic, Our Venerable Brother Melchior Nasarian, Armenian Bishop of Mardin. And afterwards, the bishops of that nation, with Our permission, were convened in a synod to elect a new Patriarch; and to this assembly, fortified by Our Apostolic authority, was present Our Venerable Brother Joseph Valerga, Patriarch of Jerusalem, and Our Apostolic Delegate in Syria. In this assembly, on the fourteenth of September of the past year, in the Armenian buildings of the Virgin Mary, assumed into heaven, on the holy Mount Lebanon, those bishops, with all votes, chose the Venerable Brother Anthony Hassun, Archbishop Primate of the Armenians of Constantinople, to be adorned with so distinguished a dignity."

[*Latin ed. p. 344*]

344 FROM THE CONSISTORY ACTS. Karlova, indeed. To their most devoted letters, those same Bishops humbly and earnestly requested that we might be willing to confirm such an election; and at the same time, they explained that this election had been made by them with the very hope that the Patriarchal and Primatial Sees of the Armenians might be canonically united. Indeed, these Sees have often been desired to be united by the Catholics of Constantinople, and this has been urged by our blessed predecessor, Gregory XVI, and by us. But grave and just reasons have prevented the fulfillment of these desires of the Armenians. However, in the

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year one thousand eight hundred and fifty-nine, we permitted that, when the Patriarchal See of Cilicia should have been deprived of its pastor, the election of a new Patriarch should be postponed, so that the sacred ministers of that nation might, before such an election, freely express their opinion regarding the union of these Sees. Now, after all things pertaining to the promotion of the Christian faith among the Eastern Churches have been carefully examined by Our Congregation, and after deliberation by that same Congregation, we have judged it fitting to confirm the election, or rather, the nomination, of the Venerable Brother Anthony Hassun as Patriarch of Cilicia, and to carry out the union of the Patriarchal and Primatial Sees of the Armenians, which has been so strongly desired by the Bishops of Cilicia and by the Armenian Catholics of Constantinople. And concerning this matter, we have ordered that Our Apostolic Letters, sealed with lead, should be dispatched, in which everything is explained more fully. And we do this all the more gladly, because the Venerable Brother Anthony Hassun has for a long time demonstrated outstanding examples of his religion, piety, and sound and salutary doctrine, and of his loyalty to us and to this Chair of Peter, and of his strength in defending the episcopate in the Catholic Church, and the freedom of the Church, and for this reason, he is worthy of the Patriarchal honor, and is particularly suitable for restoring ecclesiastical discipline. Furthermore, all the Bishops of Cilicia have clearly and openly declared to us, with the utmost sincerity, that they are most devoted to this Apostolic See, and that they will firmly adhere to it, and that they will obey the will of Our Holy See, and that they will do all that has been entrusted to them and demanded by us and by this same See. "Therefore, we are indeed hopeful that, with God's help, in the Patriarchate of Cilicia, through the efforts and zeal of the same..."

[*Latin ed. p. 345*]

FROM THE CONSISTORY ACTS. 34-5. May the venerable Brother Anthony and his co-bishops, may the Catholic religion daily increase, and may ecclesiastical discipline daily flourish. Indeed, none of you, Venerable Brothers, are ignorant of the most serious and never sufficiently lamented damages which have resulted to the Eastern Churches from the most grievous schism, which has for a long time miserably separated those Churches from the unity of the Catholic Church. To these damages, this Apostolic See has never failed to apply appropriate remedies. Although some of those Churches have, through the divine grace, returned to Catholic unity in matters of dogmatic doctrine; nevertheless, due to the vicissitudes of affairs and times, it has not yet been possible in all of those Churches to fully restore ecclesiastical discipline, from whose corruption and neglect errors and heresies often arise. Our predecessors certainly wished that the rites, faith, and morals of the Eastern Churches, which are not at all contrary to sanctity and ecclesiastical propriety, should be

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preserved completely, inviolably, and we ourselves have confirmed this in Our Encyclical Letters (1) given to the Easterns on the sixth day of January in the year one thousand eight hundred and forty-eight. But it is absolutely necessary that all Sacred Ministers and priests diligently observe the liturgical discipline proper to their Church, and that it should never be left to the arbitrary judgment of individual prelates, but should be determined by the authority of this Apostolic See. To no one, indeed, has it ever been permitted, nor is it permitted now, to alter, innovate, or diminish the liturgy in any way, as especially have determined and taught in their Apostolic Letters Pope Benedict XIV (2) and Pope Gregory XVI (3), and We confirm these letters and rules contained therein with the highest authority of this Apostolic See, and We command that they be religiously observed by all Eastern Churches. "But since We are not unaware that in the ecclesiastical governance of the Eastern Churches there are certain matters which are still uncertain due to the calamities of past times, or which are not suitably established, as We pointed out in Our aforementioned Encyclical Letter to the Easterns, then We, greatly concerned for the good of those Churches, will certainly devote all our efforts to ensure that the sacred canons are observed." (1) In the aforementioned (2) Const. Demandata, January 6, 1848. December, year 1743. (3) Among the most serious, February 3, year 1832.

[*Latin ed. p. 346*]

346 FROM THE CONSISTORY ACTS. That everything may be arranged and ordered properly, according to the institutions of the Holy Fathers. And since, among the principal matters of ecclesiastical discipline, the election of Bishops is foremost, from which the good and honor of the Church, and the spiritual salvation and benefit of the faithful people depend most greatly, therefore we have considered it necessary to devote all our care and thoughts to this most important matter with the utmost diligence. For, since the supreme care and power over the entire Church, of governing and guiding it, has been entrusted to Us by the Lord Christ Himself in the person of the most blessed Apostle Peter, the Prince of the Apostles, there is nothing that can be more important or fitting for Us than to continually apply singular diligence and vigilance, so that worthy Bishops may be chosen. And therefore, We have already made it manifest to the Most Reverend Armenian Brothers, the Sacred Ministers, what Our will is concerning the election of Bishops. We desire that the Patriarch and the Bishops themselves propose to Us three suitable ecclesiastical men, from among whom We may be able to choose the most worthy, and to provide for vacant episcopal sees. While We have decided this for the Armenians, We have not forgotten the other Patriarchates of the Eastern Rite, for whom We will also, in due course, take care to regulate this most important matter of the election of Bishops. Indeed, this plan that We have initiated, We have

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recently made manifest to the Patriarchs of the Maronites, and the Greco-Melchites, and to other Eastern Bishops residing in Rome. For only those should be chosen for the exalted dignity of the episcopate who are adorned with the gifts that the Apostle Paul individually mentions in his epistles to Timothy and Titus, and who, according to the norm of the Holy Canons, are distinguished by the integrity of their lives, the gravity of their manners, the praise of salutary doctrine, and the zeal for the Catholic religion and the salvation of souls; and who seek only those things that are Christ's, and who, residing diligently in their dioceses, govern and regulate them according to their proper ordinary jurisdiction, and who, by word, by deed, by example, and especially by the proclamation of the divine word, by the administration of the Sacraments, protect the flock entrusted to them from the snares, lead them to wholesome pastures, and constantly guide them along the paths of God's commandments. In order that all things may proceed prosperously in the Patriarchate of Cilicia, We command that the Bishops of that Patriarchate...

[*Latin ed. p. 347*]

FROM THE ACTS OF THE CONSISTORY. 347, it is forbidden for them to hold a synod under their Patriarch, and to send the acts and decrees of the synod to the same Congregation of the Propagation of the Faith, which is responsible for the affairs of the Eastern Churches, pending a thorough examination by that same Congregation, and its approval by Our supreme judgment and authority. We also do not omit to give appropriate warnings and instructions to the new Patriarch and to the Armenian Bishops of Cilicia, through the same Congregation, in order to further promote the daily benefit of their faithful. We are indeed striving for this, that the aforementioned Patriarch, and his co-bishops, will never leave anything undone in diligently fulfilling all the most important parts of their ministry, so that, with all patience, doctrine, and charity, they may bring back those who are wretchedly wandering from the most pernicious schism to the bosom of the holy Catholic Church. "Now, having deliberated with the Venerable Brothers, Our Cardinals of the Holy Roman Church, who are entrusted with the affairs of the Eastern Churches in the aforementioned Congregation of the Propagation of the Faith, We have decided to elect the Venerable Brother Anthony Hassun as Patriarch of Cilicia of the Armenians, desiring to offer him a more evident testimony of Our paternal charity, and, as is fitting, to adorn him with the sacred Pallium taken from the body of Blessed Peter, and We have decreed that We Ourselves shall impose this symbol of the fullness of the pastoral office upon him. We do not doubt that this singular sign of Our benevolence will be very pleasing to the Patriarch himself, and to the illustrious Armenian Catholic Nation, which this Apostolic See has always favored and continues to favor with all affection. "What do you think?" "By the authority of the Almighty God, of the Holy Apostles

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Peter and Paul, and of Our aforementioned See, established by Our blessed predecessor, Pope Pius VIII, we extinguish the Primatial and Archiepiscopal title, and we permanently unite the ecclesiastical province of that same See with the Patriarchate of Cilicia of the Armenians: we confirm and approve the election, or the proposal, made by the Venerable Brothers, the Armenian Bishops of Cilicia, concerning the Venerable Brother Anthony Hassun, whom they have constituted Patriarch of Cilicia of the Armenians.

[*Latin ed. p. 348*]

348 FROM THE CONSISTORY ACTS. We declare, appointing him as Patriarch and Shepherd of that Patriarchal Church, as will be expressed in the Consistory Decree and Schedule, notwithstanding any contrary matters. "In the Name of the Father, and of the Son, and of the Holy Spirit. Amen." After these words, the elected Patriarch, together with all the bishops of his rite, was admitted into the consistory hall. Also present were the Most Reverend Fathers Paulus Mashad, and Gregorius Jussef, the Patriarchs of the Maronites and Melchites, respectively; and all other prelates of the Oriental rites, and many also from the Latin rites who are present in Rome, among whom was the Most Reverend Paulus Brunoni, Archbishop of Taron, and the Apostolic Vicar of the Patriarchal See of Constantinople. The elected Patriarch himself, walking in the middle between two Armenian bishops, Melchior Nasarian of Mardin, and Joseph Arakial of Ancyra, having his deacon, Paschal Rubian, following him, and having put on the more solemn vestments of his sacred order and rite, then knelt before His Holiness, kissed his feet, and requested the sacred pallium from him, using these words: "Most Blessed Father, I, Antonius Petrus, elected Patriarch of the Armenian Patriarchal Church of Cilicia, earnestly, most earnestly, and with the greatest urgency, request that the pallium, taken from the body of Blessed Peter, which contains the fullness of the pontifical office, be given to me, for the Armenian Patriarchal Church of Cilicia, which has been entrusted to me by Your Holiness." Then, he swore his fidelity to the Most Holy Lord and to His legitimate successors, according to the following form, established by the sacred canons and by His Holiness. FORMULA OF THE OATH: "I, Antonius Petrus IX. Hassun, elected Patriarch of Cilicia, from this hour onward, will be faithful and obedient to Blessed Peter, and to the Holy Apostolic Roman Church, and to You, Most Holy Lord, Pope Pius IX, and to Your canonically succeeding successors. I will not be in council, or in consent, or in deed, so that life may be lost, or a limb taken, or that I may be captured unjustly, or that violence may be inflicted upon You in any way, or that any injury may be caused to You under any pretext whatsoever."

[*Latin ed. p. 349*]

FROM THE CONSISTORY ACTS. 349 "The counsel which you entrust

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to me, whether through you, or through Apostolic delegates, or through messengers, or through letters sent to my detriment, with my knowledge, I will reveal to no one. "The Pope will be your aid in the Roman and Royal [territories] of Saint Peter, to retain and defend, within the limits of my authority, against all men. "I will treat the Apostolic Legate of the Holy See with honor in his going and coming, and I will assist him in his needs. "I will take care to preserve, defend, increase, and promote the rights, honors, privileges, and authority of the Holy Roman Church, of Your Holiness, and of Your successors. "I will not be involved in any counsel, act, or treaty in which any harmful or prejudicial schemes are devised against you, or your successors, or against the same Roman Church, concerning the persons, rights, honors, status, and power of those involved. And if I should discover or learn of such matters being pursued by anyone, I will hinder it as much as I can, and as soon as possible I will inform Your Holiness, or another through whom it may come to Your knowledge. "I will observe with all my strength the rules of the Holy Fathers, the decrees, ordinances, reservations, dispositions, provisions, and mandates of the Apostles, and I will ensure that others also observe them. "I will, as far as I am able, oppose the errors, attempts, and machinations of heretics, schismatics, and rebels against Your Holiness and Your Successors; and I will diligently strive for their conversion. "I will come to the Synod, unless I am prevented by a canonical impediment. "I will personally visit the Apostolic Thresholds every five years, and I will render an account to Your Holiness and Your successors of my entire pastoral office, and of all matters pertaining to the state of my Patriarchal Church, to the discipline of the clergy and the people, and finally, to the salvation of the souls entrusted to my care; and in turn, I will humbly receive the Apostolic mandates and execute them with the utmost diligence. "If, however, I am detained by a legitimate impediment, I will fulfill the aforementioned matters through a designated messenger, specially commissioned for this purpose and holding an ecclesiastical office; or, if this is not possible, through a secular or regular priest.

[*Latin ed. p. 350*]

350 FROM THE CONSISTORY ACTS. Having been fully informed concerning probity and religion, regarding all the aforementioned matters. Concerning this impediment, I shall explain through legitimate proofs to be transmitted by the aforementioned legate to the Cardinal Prefect of the Sacred Congregation for the Propagation of the Faith of the Holy Roman Church, concerning affairs of the Oriental Rite.

"I shall not sell, nor give away, nor pledge, nor newly enfeoff, nor in any way alienate, possessions pertaining to the Church or to my see, or to other churches or pious places of my Patriarchate, nor shall I permit them to be alienated by anyone, without the consultation of the Roman Pontiff.

"And if, concerning any alienation, I should come to incur the penalties

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contained in the aforementioned constitution issued by the Most Blessed Pope Paul XI, I desire to incur them thereby.

"May God assist me in this, and may these Holy Gospels of God be my witness."

"When the Most Holy Lord, having graciously assented to the request for the sacred Pallium, responded, 'We shall grant it,' the aforementioned Reverend Father, Patriarch of the Armenians of Cilicia, offered his gratitude to His Holiness with the following prayer:

"MOST HOLY FATHER,

"Although the Oriental Churches, and especially our Armenian Church, have been bound to Your glorious pontificate from its very beginnings by immortal benefits, nevertheless, the favors which on this day You have bestowed upon the Armenian episcopate, and upon my humble person, are so extraordinary that we are truly inadequate to express our gratitude commensurate with the merit. For what the Armenian people has desired for many years, namely, that the Primatial See, which was in Constantinople, be united with the Patriarchal See in Cilicia, we rejoice that it has been decreed by Your Holiness, with the highest authority possible, on this day; and that with such a provident and truly paternal affection, that in carrying out this union, You have especially preserved and united those things which seemed to excel in each See.

"Indeed, You have wished the Patriarchal dignity of Cilicia to remain, yet You have also wished that the Patriarch, whom the most severe trials of time had almost confined to the mountains of Lebanon, should reside in the splendid city of Constantinople, which is the capital and principal city of the Ottoman Empire; and You have preserved the primatial and archiepiscopal title, with which this Church was adorned by the Most Holy Pope Pius VIII."

[*Latin ed. p. 351*]

FROM THE ACTS OF THE CONSISTORY. 351, thus extinguishing, so that that greater reason of union, which existed between him and the Apostolic See, extended even to the patriarchal dignity of Cilicia. "By this action, you have most wisely provided for the safety of our Faith, which, although facing very grave dangers, we now trust, with God's help, will not suffer shipwreck. For it is fostered by the particular solicitude of Your Holiness, and, adhering more closely to this Apostolic See, it is strengthened by the virtue of that Rock, upon which the Lord founded His Church with such stability, that the gates of hell shall never prevail against it, nor will they ever prevail in the future. Indeed, recalling the very ancient history of our nation, it is clearly evident that those among our Patriarchs who adhered most closely to the Chair of Blessed Peter shone like bright stars among

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others, and that the most glorious ages of the Armenians were those in which the Catholic truth and unity flourished among them. Oh, that those who succeeded them, the great leaders of our nation, had had a closer union with the Apostolic See, as we now enjoy! For then the enemy could not have sown his tares in the field of the Lord, if the pastors had firmly adhered to the Roman Pontiff. For to Peter and to his successors, the Lord Christ said, "Confirm thy brethren." If the Armenian bishops, strengthened by this spirit, had been endowed with strength and fortitude, they would have been able to resist the deceit and violence of schismatics and heretics." Therefore, Immortal Father, we give thanks to Your Holiness for having added the patriarchal seat of Cilicia to the ecclesiastical province of Constantinople, and for having appointed me, although unworthy, to govern it. But even more, we express our most grateful feelings for the fact that, beginning with Your Holiness, the plan concerning the election of the sacred prelates of our rite has been revealed to us, using such human language, that you preferred to show the charity and benevolence of a most beloved Father, rather than the majesty of the supreme Pastor and Ruler of the Church. Oh, truly auspicious day (1), which will be proclaimed by the annals of all posterity (1), which was June 27, 1867, on which day Your Holiness addressed the Armenian Bishops.

[*Latin ed. p. 352*]

352 FROM THE CONSISTORY ACTS. It will be said; and it happened to me and to all the Armenian Bishops, near the very tomb of the Apostles, that I heard, through Your Eminence, the Most Holy Peter speak; and that we openly declare before Your Holiness our faith, our obedience, our devotion to Your commands, and to Your warnings and desires. Then, if it is permissible to speak thus, the bones of our ancient Fathers, who begat us in Christ through the Gospel, especially those of the Great GREGORY THE ILLUMINATOR, rejoiced, and confirmed that we are not degenerate sons. Truly, it is good for us, Holy Father, to adhere to you; to place our hope in you, after the Lord God. For just as the palm cannot bear fruit unless it remains in the vine, so neither can we, unless we remain after Christ in you. For true faith cannot exist without the union with the Chair of Peter: "WHERE PETER IS, THERE IS THE CHURCH." Therefore, we humbly beseech Your Holiness, that You, who have begun a good work in us through the Author, God Himself, may perfect it, strengthen it, and consolidate it through Your help, Your authority, and Your counsel. We, as You have commanded, will diligently strive to restore liturgical unity throughout the entire patriarchate, observing those rules which You have established in Your Apostolic letters, among others, "Inter plures, et Neminem vestrum." Moreover, when we convene the synod, we will endeavor to properly arrange and order all those matters which, due to the calamities of past times, still remain uncertain or are inadequately established,

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according to the norm of the sacred canons, and observing the institutions of the Holy Fathers; and we will hasten to submit all these things, both individually and collectively, to Your supreme judgment, so that we may not be found to have acted in vain. You, however, Most Holy Father, who are the Doctor and infallible Master of the entire Church, will open the way for us, either by approving, or amending, or by introducing what You deem necessary, so that we may safely proceed; and You will grant us abundant grace through Your authority, Your prayers, so that we may willingly bear the yoke of the Lord, which is indeed sweet and light, and that we may lead the people entrusted to our care into the way of eternal salvation. May the Apostolic blessing of good things be bestowed upon us and upon the faithful entrusted to our care. Among these things, we cannot forget that there are also other sheep from our own people who are not in Your fold, whom it is necessary to bring in, so that they may hear Your voice, just as...

[*Latin ed. p. 353*]

FROM THE CONSISTORY ACTS. 333 and No. Indeed, Holy Father, they are held back not so much by the wickedness of their spirit, but by ignorance; for they do not know what they are doing. Therefore, pray to God that He may forgive them; and may He hasten to draw them to His only-begotten Son, who has been exalted from the earth, so that We may rejoice in the reception of our brothers, and You may embrace with joy the returning sons, and clothe them in the first robe; and that there may be joy and rejoicing in heaven, as on earth, because our brothers who were lost have been found and have returned." "After these things, Our Most Holy Lord received the Eastern Patriarchs and Bishops most graciously in His private dwellings; and addressing them with most loving and effective words, He strongly encouraged and inspired them to preach and spread the Gospel of the Kingdom of God." For the solemn rite of the imposition of the Holy Pallium upon the new Patriarch of Cilicia, Our Most Holy Lord appointed the fifteenth day of July. Therefore, at the seventh hour in the morning, in the private chapel of the pontifical buildings, in addition to the Most Eminent Cardinal Barnaba, Prefect General of the Sacred Congregation for the Propagation of the Faith, and the Most Reverend Fathers Doctors Hannibal Capalti and John Simeoni, the latter of whom was a Secretary of that Sacred Congregation for Eastern Rites, the following were admitted: the Most Reverend Fathers Doctors, the Patriarch of Jerusalem, the Apostolic Delegate for Syria, the Patriarch of the Maronites, and also Bishops of all Eastern Rites, namely, Melchites and Maronites, Syrians and Chaldeans, Bulgarians and Copts, and all the Armenian Patriarchal dignitaries; in addition, alumni of the Pontifical College of Urban, and other Eastern rite laymen. Then the Supreme Pontiff most piously celebrated the holy sacrifice of the Mass. When He had completed the sacred rite, He sat in the throne; and the Most Reverend Father Doctor, having put on the pontifical vestments

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of his own rite, knelt before His Holiness, and, using the same words and formula as in the Consistory, he again requested the sacred Pallium, and took the oath of fidelity. After this, Our Most Holy Lord, in the customary manner and rite, as described in the Roman Pontifical, imposed the sacred Pallium upon him; and after the Mass had been celebrated by one of his chaplains, the Most Reverend Father Doctor Anthony Peter IX. and all the other Eastern and Latin Patriarchs and Bishops from the aforementioned chapel were most graciously received into the inner chambers.

Acts, vol. III, part XXXI, 23.

[*Latin ed. p. 354*]

354. FROM, CONGRATULATIONS CONCERNING THE ERECTION OF A PARISH. Lie, August 18, 1866, and August 24, 1867. Session 21, chapter 4, concerning the Reform. Compendium stated. In the Archdiocese of N., there exists a parish church in the place L., to which several villages or small towns are subject, among which the small town F. is noteworthy, in which there is a certain chapel. A pious and wealthy priest of this small town, being a native of that place, proposed to separate this, along with other adjacent villages, from the parish, and to erect it into a separate parish. He explained the reasons for this erection in a document which he presented to the government, in order to obtain, as they say, royal approval, according to certain comments of the civil authorities against the Church. He stated, namely, that the aforementioned parish, besides the principal place, included other small towns, among which the aforementioned small town F. is located, a distance of more than an hour's journey from the parish church: it would be more advantageous for the people of that town if it were erected into a separate parish: 1. because of the roughness of the mountain roads, through which the inhabitants could not conveniently access the parish church; 2. because of the inconvenience to the parish priest, who could not, as is proper, readily provide religious assistance to that people, especially since the parish priest did not usually make use of other priests; 3. because of certain disagreements that existed between the parishioners of these separated places; which disagreements and divisions would cease with the erection of a new parish. Therefore, the priest B., the sole survivor of his family, offered his family's assets for the erection of the parish, since there already existed in the small town F. a chapel sufficiently large and richly furnished with sacred furnishings, etc. And indicating certain lands which he would leave to the new parish, he added that such a separation would not be to the detriment of the existing parish priest, since he did not receive from the uncertain revenues of this town, except for five Italian lira annually.

[*Latin ed. p. 355*]

ERECTION OF THE PARISH OF THE MOST HOLY [Virgin] MARY.

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The proposal of the Reverend Father B. for this matter was highly commended by the Curia, and the General Vicar, so that no unforeseen misfortune might hinder the matter, not only through his own efforts, but also through the opportune intervention of religious men, urged the priest to establish an endowment for the new parish in his will, for the sake of the security of the undertaking. The priest, complying with this, drew up a will, in which, having left a substantial sum for his heirs, he bequeathed a property to the parish, which would yield an annual income of 1200 Italian lire, distributed in several portions, either for the parish priest or for the chapel; and he also described certain duties to be performed by the parish priest whom he would appoint, among which was the duty of teaching the children of the town on weekdays. In order that this will might be carried out, should he die in the meantime, he appointed testamentary executors. After the priest died a short time later, the executors affixed their hands to the will in order to fulfill their office. In the meantime, some delay having occurred, the heirs requested the Curia, to ascertain whether the erection of the parish had indeed been confirmed, or rather, whether they should be allowed to assign the substance of the pious bequest among the hereditary assets. To this request, the General Vicar replied that there was no basis for the erection of a new parish. Without any delay, the heirs then petitioned that the validity of the bequest be declared legally null and void, and they obtained a judgment from the secular tribunal. But the testamentary executors, immediately filing an appeal, requested the Curia to determine whether the aforementioned decree implied a permanent rejection of the parish. To this, the Vicar replied that the decree had been issued because there were no reasons deemed sufficient to proceed with the erection of the parish, but that it should be understood that the decree referred to a future time. Moved by this declaration, the civil judges revoked their previous judgment. Then, the heirs again approached the Curia, and requested that any ambiguity be removed and that a final and absolute determination be made, whether the disputed parish should be erected or not. Then, the Vicar replied a third time: We declare that there is no basis for the erection of the parish, either now or in the future, as long as the current administration continues. Then, the executors, on behalf of themselves and the inhabitants of the town of F., presented a petition to the Holy See, to determine whether there was a basis for the erection of a parish.

[*Latin ed. p. 356*]

356. ERECTION OF A PARISH. After receiving customary requests addressed to the Archbishop, seeking his opinion and decision regarding the same, and after hearing the Parish Priest, etc., concerning the necessity or utility of the proposed erection of a new parish, or, if not, what legitimate reasons might obstruct said erection: after considering, and in compli-

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ance with the mandates, he wrote the following: "After the death of Priest B., four villages, including the village of F., petitioned for the erection of a parish, so that the ancient parish, which consisted of eighty thousand parishioners, would be reduced to only six hundred." At that time, as I was required to ascertain, with the consent of more than four hundred parishioners, whether the proposed erection was useful, I indicated that it was, and therefore the hopes of those seeking it were raised. However, in the year 1857, in the month of May, I myself, while visiting the parish and all the surrounding areas for pastoral purposes, observed that the canonical reasons for the requested erection were not present, nor was there sufficient distance from the existing parish, nor even easy access to the parish during the winter months for the administration of the sacraments. Furthermore, three villages, having changed their opinion, did not wish to be separated from the old parish, so that only the village of F., adjacent to the chapel, would be part of the new parish, which was located in the middle of the territory of the old parish. In addition, divisions and dissensions seemed likely to arise among the people. Therefore, I considered it prudent to suspend the erection. "However, when a dispute arose in the civil court between the heirs of Priest B., and they insisted, it was impossible for me to refuse to make a declaration in which I testified that the place was not suitable for the erection of a new parish at the present time." After this decision was made public, some of the inhabitants of the village of F. stirred up quarrels and lawsuits under the pretext of the administration of the goods of the chapel, so that they forgot, again and again, the reverence due to the sacred place. At that time, I forbade the chapel to be used, and after fifteen months, when I learned that the animosity had subsided, I restored it to divine worship, and from that time on, all proceeded quite peacefully in the parish of the village of L. Regarding new requests from the Orators, I consulted the Parish Priest and the parish council of the village of L., and their authentic responses, in which I found nothing contrary to the truth, are being transmitted (E.E. PP.). After such information was obtained, a decree was issued: "Let it be noted on the file, and let the Archbishop be notified, who will be reminded to take an interest."

[*Latin ed. p. 357*]

ERECTION OF A PARISH. 357 Those who have the right, and especially the Parish Priest, the testamentary executors, and the heirs of the deceased Priest B., to the extent that they so desire, may bring further legal actions before the Holy Congregation, and shall inform the Holy Congregation of the results. After this decree, several Parish Priests brought legal actions; the executors, however, appointed a lawyer who would plead their case.

AS TO WHAT THE TESTAMENTARY EXECUTORS WERE BRINGING FORWARD: — It was inquired whether, in the case of the erection of a new parish, two things are required by law, namely, a legitimate cause

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and formalities; the legitimate cause consists in necessity or evident utility; necessity is usually placed in the difficulty of access and the distance of places; as to how great this distance must be, since it is not defined by law, it is left to the judgment of the judge; especially since all causes of necessity ultimately reduce to the inconvenience and difficulty of reaching the parish church, as Fagnanus teaches among others in chapter "Ad audientiam" n. 16 and following. The aforementioned orator pointed out to the Court that these causes of necessity were present, and that, having knowledge of the cause, the requested erection was initially highly recommended and encouraged. This was confirmed both by the map of the place, which shows a path between the town of F. and the parish in a mountainous region, winding for two thousand paces or more, and separated by a rapid stream; and also by the testimony of the inhabitants of the town of F. and of the testator priest himself, who declared that a new parish was necessary for the people, numbering 400 inhabitants, who could not easily access the parish church; and that this priest, along with two counselors of the same parish, L., at a time not long ago, had obtained a decree from Riez in favor of such an erection, which he considered very useful for the town for the same reason. The orator added that a more serious difficulty was placed in the ailments and dissensions between the two populations, as testified by the same testator priest, who included this cause in his initial petition. Hence, he argued, the desired erection was scarcely being reconsidered due to subsequent decrees of the Court, so that...

[*Latin ed. p. 358*]

358. ERECTION OF A PARISH. Dissensions had increased to the point that the ecclesiastical court had for a long time subjected the chaplain of the town of F to an interdict. However, it was maintained that, if necessity were not present, it could not be denied that there was utility; for when the legitimate cause for erecting a new parish is necessity or utility, there could be no doubt that utility was present: for a proper pastor would be established, who, recognizing his flock, would be ready to provide for all their needs, thereby making the inhabitants of the town more disposed to the practice of piety; the divine worship would be increased in the chapel of the same town, and it would be enriched with a more abundant offering. Considering these things, it was said that there was no need to inquire about solemnities, that is, about the consent of the parish priest and the parishioners, since such solemnities are required, not for the form of the act, but in order to avoid prejudice, which prejudice, that is, the burden and loss of the existing parish, would be present; and that any dissent, according to the Council of Trent, Session 21, chapter 1, concerning reforms, and according to what Barbosa states in *De Officiis et Potestate Episcopi Parochi*, part 3, allegation 67, and according to Jordanus Euhubr., book 1, chapter 2, title 31, number 6, and Moncelli, book 1, part 2, form 3, number

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3. But in the present case, it was added, there was no lack of the consent of the parishioners, as testified by the Archbishop, and as had been testified from the beginning by the Vicar, who affirmed that the erection of such a parish was in the hope and desire of the people of the town of F. And although, later, the efforts of certain parties had been aroused, nevertheless, more than thirty mothers had signed petitions to the Holy Congregation for the purpose of erecting the parish. It was maintained that this legal principle applied in cases where the division involved the suppression of some benefit, or the division of the parish funds themselves, or the contribution of the parishioners, in other words, a prejudice to the old parish; in such cases, the erection of a new parish, which would appear to be an alienation, requires serious reasons prescribed by law; but where the erection causes no prejudice, it is worthy of all favor, as is stated in Pisauri, April 19, 1766, §. Furthermore, the Orator then recounted how the priest, in his will, had provided very generously for the need of erecting a new parish.

[*Latin ed. p. 359*]

CONCERNING THE ERECTION OF A PARISH. 359 bus: And furthermore, no harm would be done to the former Parish Priest, since he would not receive from that portion of the people anything other than five Italian *libellae* annually, which sum could easily be compensated, as was judged in Angiomen, on December 20, 1704. Indeed, he continued, justice demands that this be made clear today. It had always been pleasing to the predecessors of the Priest that a portion of their inheritance be allocated to the establishment of a new parish; and if that were not possible, they would certainly have wished that the same sum be allocated to some other pious work. However, the archiepiscopal court urged Priest B. to proceed with the erection of the new parish. Furthermore, since with the civil authorities there was no longer any recourse between the purchase of the endowment and the erection of the parish, he maintained that justice would not allow the people of the town of F. to be deprived of so great a benefit, the church of a substantial endowment, and Priest B. of the deserved support. Therefore, even if there were no just reasons to prevent the ordinary authority from proceeding with the erection, he concluded that it was necessary to consult the Most Holy Father, whose authority makes up for all canonical deficiencies: Pyrrhus Corradus, *pract. benef.*, book 3, chapter 2, number 4.

REASONS BY WHICH THE PARISH PRIEST OPPOSED THE ERECTION OF THE PARISH. – The Parish Priest and the Elders maintained that there was no legitimate reason for the division of the old parish, and the erection of a new one; on the contrary, it would cause very serious harm. Regarding the lack of a legitimate reason, they argued that the lower portion of the town of F. was located a distance from the parish church that anyone could conveniently traverse in a quarter of an hour; while the

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upper portion, which was located a distance that could be traveled in half an hour, should oppose the division: that there was a convenient road to be traveled at any time, whether in summer or winter, day or night; that the number of parishioners in the entire parish was small, barely numbering nine hundred; and that the upper portion, of which we spoke, already had a chaplain and a chapel, so that the needs of that more distant portion were already being provided for. As for the harm, they argued that the total income of the entire parish was small, and that the division would reduce it further, and that the Parish Priest would suffer additional harm, since the parish would be deprived of part of its support; furthermore, the new parish would not be able to sustain itself due to a lack of resources.

[*Latin ed. p. 360*]

360. ERECTION OF A PARISH. It was a small chapel, and a new church needed to be built, etc., etc., to which the inhabitants of that place could not provide; moreover, the universal opinion of the parishioners was opposed to the erection of the parish. For these reasons, he refused to send priests to divide his parish, which he canonically possessed and to which he had hitherto provided. After these considerations, the purpose was to resolve the doubt: "Whether and how it is permissible to erect a new parish in this case?" To which the Holy Congregation responded on August 18, 1866: "Affirmatively in all respects, and with the understanding that the Archbishop should, as soon as possible, propose the boundaries of the new parish to be erected, and should inform the parish priest of the place, commonly called L., of the damage that will result, so that provision can be made."

CAUSES FOLLOWED. After such a resolution was transmitted, the archiepiscopal court inquired of the Holy Congregation whether the people who were to be separated from the old parish should be consulted in establishing the boundaries of the new parish, so that, in the future, families would not be torn apart without consultation, and greater divisions would not arise; or rather, whether such a definition of boundaries should be made entirely without consultation, whatever the outcome might be. In this case, he stated that he wished that a special delegate from the Holy Congregation should be sent to determine the boundaries, so that all suspicions and complaints against him, either from the part of the parishioners or from the part of the parish priest, might be removed. Thus, he concluded, once the boundaries were clearly defined, the damage resulting to the parish priest could be easily calculated.

A petition arrived in Rome, signed by fifty-four parishioners, who supported the reasons presented by the parish priest above. Attached to this petition was another, signed by thirty-two inhabitants of the town of F., or neighboring villages, who opposed the erection, especially because they could not bear the many expenses that the erection of a new parish would require. In addition, the new parish priest presented complaints,

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with which he sympathized, regarding the condition of the heirs, who would be in need of the inheritance left to them for the purpose of erecting the parish, and he indicated the divisions that had arisen and would arise, etc. From the part of the testamentary executors, almost the same things were repeated as described above, to which this advocate added—

[*Latin ed. p. 361*]

ERECTION OF A PARISH. 361 bat: namely, that the consent of the Parish Priest is not required as a matter of form for the validity of the division of a parish, but that he should be heard because of the prejudice that might be caused to him, as was said in Ravenna, on February 18, 1854, § 1. But if the prejudice to the Parish Priest were considered in terms of jurisdiction, it would occur in any division, and therefore it must necessarily be compensated. And if provision were to be made for this inconvenience, it could be done by reserving the rights of the parish registry (matriarchate) L. And if the prejudice were considered in terms of emoluments which are commonly subject to the rights of the stall, it would be quite slight, and the Parish Priest could not even complain about it, since he would be compensated by the partial labor of his office. But even this slight detriment could be remedied, he said, either by paying a certain sum for a single occasion, as was done in Novaria, on March 22, 1766, or by imposing a new burden on the Rector of an annual payment of a certain amount in recognition of the rights of the parish church L., as was done in Anglonen, on December 20, 1704. But, the Advocate continued, the Parish Priest himself should not complain about any of his prejudices in the presence of the people, since he would be urging only the detriment of the people, whom he falsely supposed should bear the expenses of the erection; nor should the detriment of the heirs be considered, who, although they had inherited the property as stated in the acts (Lib. 98823), nevertheless pursued a pious legacy against the dissenting will of the testator, who imposed a penalty on any of the heirs who dared to bring a lawsuit or violate in any way the order and disposition of his will. Therefore, the Advocate concluded, the dissent was unreasonable; and therefore, a new parish should be erected, even against the will of the Parish Priest, according to the text in chapter "Ad audientiam de Eccles., aedif. et Conc. Trid. sess. 21, c. 4 de Reform." Moreover, he added, the dissent of the parishioners would cause less trouble. For it is foreign to the doctrine of the canons to inquire into the intentions in the erection of benefices, as we see happening today in political changes by magistrates who inquire into a plebiscite. Hence, the opinion that the consent of the majority of the parishioners was required for the erection of a parish, was disapproved by Barbosa de offic, and potest Episc. part. 3, alleg. 68, n. 4. And if it were supposed that the consent of the people was necessary for the division, he noted that, at the same time, they would have

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consented to it.

[*Latin ed. p. 362*]

362. ERECTION OF A PARISH. If, subsequently, the parishioners were to change their minds, it would be improper, firstly because what has once been approved should not be subsequently disapproved of, as the matter would no longer be whole; secondly, because it was said that such a subsequent contradiction arose from the zeal, especially of the Parish Priest, who had traversed the entire parish, seeking the signatures of all, deterring them under the pretext of enormous expenses, which the people would have to bear, for the necessities of the erection. Given these and other considerations, the matter is doubtful: "Whether, and how, one should stand by or recede from decisions in this case." RESOLUTION: The Sacred Congregation of the Council decided on August 24, 1867, to respond: "In the decisions already made, and in the case under consideration, the consent of neither the Parish Priest nor the people need be sought, provided that an annual canon of six hours of beeswax candles, valued at L., is established in favor of the local parish, as a sign of its incorporation." FROM WHICH IT CAN BE GATHERED: I. That the dismemberment of parishes cannot be carried out without a legitimate necessity or evident utility, with appropriate formalities. II. That such formalities consist in hearing the Parish Priest and others to whom it pertains, although their dissent, if unreasonable, may and should be disregarded (1). III. However, a distinction must be made between the case of dismemberment, which cannot be carried out without a serious detriment to the existing Parish Priest and the people, and the case in which it may occur through a new endowment and foundation, without a temporary detriment to them. IV. When there is an evident reason of utility, with new revenues arising from a special foundation and endowment, it is not considered necessary to seek the consent of either the Parish Priest or the people. V. For what does not harm you, and is recognized as beneficial to others, cannot be prevented from being done. (1) Similar reasons should be recalled which we have presented in Volume I, pages 524 and 545. See also Appendix VI in the present volume.

[*Latin ed. p. 363*]

ERECTION OF A PARISH. 363. Moreover, in the present case, since the erection of the parish could not have been prevented without defrauding the will of the pious testator, and since the people and the Curia were moved to erect it, the erection of the parish could not have been hindered.

SERVICES! CHORAL OFFICE AND THE CONVENTUAL MASS. August 24, 1867. Session 24, chapter 12, concerning reforms. The Bishop of the diocese of N., located outside of Italy, had presented a report on the state of his diocese to the Holy See, in accordance with the Constitution of Sixtus V, which begins: "The Roman Pontiff, on December 20, 1585..." From this

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report, it became known that the Cathedral Chapter was not properly fulfilling its choral duties. The Holy Congregation of the Council inquired into the reason for this. After the Canons presented their explanation, and after receiving the Bishop's report, it was determined that, after many changes, the Cathedral Chapter had been re-established in the year 1693, along with certain simple benefices, and that the Canons were fulfilling the duties that bound them to those benefices: the Bishop who erected the Chapter had prescribed the obligation of performing the entire divine office; nevertheless, a certain custom had been introduced in that Chapter, namely, of singing the "Tenebrae" on feast days by order, as well as the Vespers and Compline; the Matins were sung during the vigils of Easter and Christmas, as well as on the Lord's Supper, Good Friday, and Holy Saturday; on the other days, the Prime, Third Hour, Vespers, and Compline were recited, or sung, if a part of the younger clergy were present; the Matins were sung during the vigils of all the Dead, omitting the Prime and Third Hour, which were also omitted when, according to the endowment, the Matins of the Dead were to be performed. However, this custom had gradually been introduced for several reasons, namely, due to the small number of Canons, who were also required to perform duties in other dioceses; due to certain concessions made by the Bishops; and due to the lack of funds for establishing choral vicars.

[*Latin ed. p. 364*]

364 SERVICES OF THE CHOIR AND THE CONVENTUAL MASS, or for Beneficiaries. For these reasons, the Bishop himself petitioned the Holy See to deign to approve such a custom. Regarding the conventual Mass, there was no trace from the earliest establishment of the Chapter that indicated that it had been prescribed and celebrated, although the custom of celebrating Mass after the singing of the choir prevailed, and it was applied for the benefit of the beneficiaries; for various reasons, the Bishop petitioned that this custom be maintained. The revenues received by the Canons were meager. Therefore, four questions, as follows, were presented to the Holy Congregation on January 23, 1864: I. "Are the Canons of the cathedral church (N.) obligated daily to perform the complete canonical hours in the choir, and to apply the conventual Mass for the benefit of the beneficiaries in this case?" And to this, the answer was affirmative. II. "Is it necessary to consult with the Holy See regarding the absolution of previous omissions and the remission of improperly received fruits in this case?" And to this, the answer was affirmative in all respects, provided that a single Mass with singing be celebrated, with the entire Chapter present. III. "Is it necessary, and in what manner, to consult with the Holy See regarding a reduction of the choral service in favor of the aforementioned Canons in this case?" And to this, the answer was affirmative for a shorter time, except on the more solemn feast days and the four days following the week of the Greater

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Easter, for a period of ten years. IV. "Is it necessary, and in what manner, to consult with the Holy See regarding a reduction of the conventual Mass in this case?" And to this, the answer was affirmative only on days of precept, for a period of ten years. These resolutions were approved by the Most Holy Lord. These resolutions were transmitted to the vicarious of the Chapter, while the episcopal see was vacant, so that they might be ordered to be executed. The Chapter was convened by the vicarious, and the Canons decided on a rule, according to the resolutions regarding III and IV, which they should henceforth follow, and which is of the following tenor: 1. On all weekdays of the week, the Chapter shall recite in the choir four shorter hours, that is, Prime, Terce,

[*Latin ed. p. 365*]

SERVICES OF THE CHOIR AND THE CONVENTUAL MASS. 365. At the hours of Sext and None, immediately before the sung Mass, which, according to the custom of this church, is celebrated each day of the week by a younger priest for the devotion of the people. 2. On Sundays and holy days of precept, which are observed publicly, the choir shall sing only the Third Hour immediately before the sacred solemn Mass, and nothing else before noon; then, in the afternoon, at the usual hour, the choir shall sing Vespers and Compline (1). 3. The following three feasts are considered more solemn: The Feast of the Nativity of the Lord, Easter, and Pentecost. 4. However, with the exception of these more solemn feasts, the observance is as follows: the entire office is not sung or recited in the choir, but the Nocturns, Vespers, and Compline are sung. However, Lauds (except on the Feast of Pentecost), as well as Prime, Sext, and None, are not recited in the choir, but privately only. Regarding the resolution to the 4th question, the following rule has been established: 1. Holy days of precept are understood in the strict sense, namely, excluding Sundays and excluding abrogated feasts, which are not observed publicly. 2. On these holy days of precept, the Canons sing the sacred solemn Mass at the ninth hour and offer prayers for the benefactors of the cathedral church; the other Canons are present at the solemn Mass as usual. Furthermore, on these same days, the Mass of the Parish Priest, who is also a Canon of the cathedral church, is offered for the people in the morning at the seventh hour, since, as is customary in this city, a large number of people are accustomed to attend the sacred Mass sacrifice after the first sermon, which is given at half-past six o'clock. 3. However, on the feasts of the Bishop, which are assigned in the ceremonial of Bishops, since the Bishop offers prayers for the people and sings the sacred solemn Mass at the ninth hour, that Canon who is also the Parish Priest, considering himself relieved from the obligation of offering prayers for the people, offers the Mass in the morning at the tenth hour (1). The reason for this arrangement, given by the Canons, is: "Since the cathedral church is also a parish church, and therefore, after the sacred

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solemn Mass, which is celebrated at the ninth hour in the morning, there are continuous sacred functions in which a large number of faithful people are accustomed to attend, until the eleventh hour, and this exceeds the customary time of rest. Furthermore, the people here have, from ancient times, been accustomed to attend Vespers sung in the choir on Sundays and holy days for their devotion, and it did not seem prudent to disturb or destroy this pious custom of the people."

[*Latin ed. p. 366*]

366 SERVICES OF THE CHOIR AND THE CONVENTUAL MASS. The seventh [rule] applies to benefactors in the manner of the conventual Mass, so that the Canons are present in the choir for that same Mass. This deliberation of the Canons was approved by the capitular vicar, with the reservation of the Bishop's right to dispose of matters otherwise when fully present. The new Bishop, having considered all matters, decided to submit the entire matter again to the Holy Congregation. Although he considered the interpretation made by the Chapter to be correct in all respects, nevertheless, having explained the difficulties, he ordered the execution of those resolutions. He proposed a certain other method to the Holy Congregation, namely, that on holy days of precept, common days, and Sundays, the use of the Chapter should be retained and approved, reciting the Prime and Third Hours; and that the solemn feast of the Body of Christ should be added to the three more solemn holy days, so that on these four more solemn feasts, the Chapter should recite Matins with Lauds, Prime, and Third Hours, as well as Vespers and Compline; and that, with regard to the other lesser hours, the Ordinary should have the power to dispense from reciting them in the choir, if they could not be recited in the choir without great difficulty, etc. Regarding the conventual Mass, he pointed out that the Canons were bound by the obligation of other Masses, which were to be celebrated by the Chapter for the benefactors of particular prebends, and especially the office for the dead with a sung Mass of Requiem each month for a certain principal benefactor; and also for each Bishop benefactor, so that, as it seemed to him, the celebration of the conventual Mass on those holy days of precept, on which the Chapter now celebrated it, would suffice for them.

Certain things were observed concerning the interpretation of the resolutions given by the Canons; although difficulties existed on holy days (which consisted of the disturbance of the order of the sacred functions that were usually celebrated in the cathedral church with the frequent attendance of the people), and the recitation of all the lesser hours; such difficulties, indeed, could have provided a reason for seeking a new indulgence

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from the Holy See, but not for abandoning them of their own accord.

[*Latin ed. p. 367*]

SERVICES OF THE CHOIR AND THE CONVENTUAL MASS. 367 Concerning the observance of more solemn feasts, it is found in the Decree of Clement X, issued on December 15, 1703, that in private chapels, it was not permitted to celebrate on Easter, Pentecost, the Nativity of Christ, and other more solemn feasts. Furthermore, in a letter transmitted by the Prefect of the Sacred Congregation of Rites on September 6, 1781, to the Bishop of Vaison, in which the opinion of the Sacred Congregation concerning a certain resolution was declared, the following was stated: "We decree and declare, according to the disposition of the ceremonial, that the plainsong should be sung in the more solemn feasts, namely, the Nativity of Our Lord Jesus Christ and the Epiphany, Easter of the Resurrection, Ascension, Pentecost, the feast of the Body of Christ, the feasts of the Holy Apostles Peter and Paul, the Assumption of the Blessed Virgin Mary, and All Saints' Day, and the feast of the titular saint of the church and the patron of the city to which that church is dedicated." (This letter is cited in the Gardelin Collection under Decree 4384). Therefore, it was not correctly stated that the canons were prohibited from celebrating the three aforementioned solemnities; and, contrary to the resolution of the Sacred Congregation, it was also incorrect to say that the divine choral office was partially recited on those days. Regarding the celebration of the conventual Mass, the Sacred Congregation had not prohibited its celebration from being held on only the feasts of precept, but rather, no one was to be excused from attending even on Sundays, which are days of precept. Concerning the pastoral duty of applying the Mass for the people, it was observed that no parish priest was exempt from this obligation, since the Bishop, whether on solemn days or on other days, celebrates the Mass for the flock entrusted to him; if this were to be the case, since the Bishop does not exclusively celebrate for the cathedral parish, but for the entire diocese, all parish priests would have to be declared exempt; which is absurd. Finally, it was recalled that a rule was established by Benedict XIV in the celebrated Constitution *Cum semper oblatas*, according to which, when a parish priest who is also a canon is obliged to sing the conventual Mass on feast days, another must be substituted to apply the Mass for the people. With these and other observations in mind, the following are to be considered: 1. (Whether one should adhere to the decisions, or rather, whether one should consult with "SSmo" [Most Reverend] for a further reduction of the services of the choir in this case.)

[*Latin ed. p. 368*]

368 SERVICES OF THE CHOIR AND THE CONVENTUAL MASS. II. Whether and how the Most Reverend [Ordinary] should be consulted regarding absolution for past omissions in the service of the choir, and regard-

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ing the remission of improperly received fruits in case III. Whether and how the Most Reverend should be consulted with the favor of the Canon [of the Parish] regarding omissions in the celebration of Mass for the people in the aforementioned case.

RESOLUTION. – The Holy Congregation, having knowledge of the matter, decided on August 24, 1867, to respond as follows:

To 1. In accordance with the established norms; namely, according to the Bishop's judgment regarding canonical hours, but not regarding the number of solemn feasts. And it is the opinion that the Bishop should remind the Canons that among the solemn feasts are those listed in the aforementioned letter from the Most Eminent Cardinal Prefect of the Holy Congregation of Holy Rites, dated September 6, 1781, addressed to the Bishop of Vasionen, so that on each of these days, the manner of choral service prescribed by the same Bishop should be observed. Furthermore, there can be no doubt that Sundays should be included among the feast days.

To II. Affirmative, provided that a single Mass is celebrated with singing, with the entire Chapter present, and that each Canon is ordered to celebrate one Mass of his own choosing within the month for the benefit of the benefactors.

To III. Affirmative, provided that ten Masses are celebrated for the people within two months, and the Bishop should remind the Parish Priest that he himself is obligated to apply a Mass for the people even on those days in which the Bishop celebrates pontifically in the cathedral, while another [Canon] should do so on those feasts in which he is required to sing and apply the conventual Mass for the benefactors.

FROM WHICH WE GATHER:

I. Cathedral Chapters, which have been established through the accumulation of simple benefices, are generally obligated to perform all the choral duties connected with those benefices, as well as other choral duties that must be performed according to the common discipline of the Church.

II. Although, in the change of status of simple benefices into prebends or a chapter endowment, the duties attached to them from their foundation are performed; nevertheless, other duties follow that are proper to the new status to which those benefices are assigned.

[*Latin ed. p. 369*]

SERVICES OF THE CHOIR AND THE CONVENTUAL MASS. 369 I III. However, such choral duties, for urgent and reasonable reasons, may be restricted by Apostolic authority, which alone governs common law, according to the circumstances. IV. Furthermore, understand what is commonly meant by the words: "more solemn feasts." V. Nor is the parish

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priest to be excused from celebrating and applying the Mass for the people, even if the Bishop celebrates it in the parish church, and applies it for the people entrusted to him (1).

ECCLESIASTICAL DISPENSATION. August 14, 1867. Session 25, chapter 9, concerning reforms. Summary of the case. The Archpriest N. in his will, left a pious bequest, by which he wished to establish a purely lay chaplaincy, with the obligation of two Masses offered for the soul of the deceased. To take possession of this chaplaincy, he called a priest or cleric from certain family lines, among which he preferred one family closely related to him by blood; in the event of the extinction of these families, he established certain other provisions favoring the clergy of that place to whom the testator had previously served as Archpriest, and he left the administration of the goods of this chaplaincy to that clergy in this case. At present, a certain cleric from the preferred family peacefully possessed the chaplaincy, but being compelled by the civil government to wear a military uniform, he turned to the Holy See to obtain permission, while in military service, to receive the fruits of the lay chaplaincy which he held; indeed, he requested that the goods of his family, reduced to poverty, be freely granted to him, except for the obligation of fulfilling the duties, since other families called by the testator were lacking, and the administration of the goods was prohibited to the clergy who, according to the will of the testator, should administer the goods in this case. (1) These matters are greatly clarified by what we wrote in the famous case concerning doubts, etc. Folio I, page 389. Acts, volume III, section XXXI, 24.

[*Latin ed. p. 370*]

370. CONCERNING THE LAICIZED CHAPLAIN AND A DISPENSATION. Having heard the Bishop and those concerned, he confirmed the petition, and recommended Clairac, considering the great poverty of his beloved family, although Clairac seemed to lack a divine vocation; however, some of the clerics of that place opposed the petitioner's prayers, arguing that granting them would be detrimental to their own rights and a perversion of the testator's will. In order to resolve a matter arising from official inquiries, the following question was proposed: "Whether, in such a case, one should grant the petitioner's request."

RESOLUTION. – The Sacred Congregation of the Council, having thoroughly considered the matter on August 24, 1867, decided to respond as follows: Regarding the allocation of goods, "lectum" (1); concerning the remaining matters regarding the dispensation to retain the pious legacy, even for a laicized cleric, after fulfilling the obligations for seven years, and having made the required promise to the Most Holy [Father], the following can be gathered:

I. Although it is not foreign to laicized chaplains for lay chaplains to possess a chaplaincy, with the obligation to celebrate Masses and perform

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other duties established by the testator; however, if the testator requires a clerical quality, it can only be held by a cleric.

II. In cases where canonical reasons concur, the Holy Father can, at times, grant a dispensation regarding this clerical quality required by the testator.

(1) Elsewhere, we have explained what is meant by the word "lectum": namely, when prayers presented to the Holy See do not produce any effect, the Sacred Congregations respond "lectum"; that is, the petition presented by the supplicant was indeed "lectum," but was not found worthy of being heard, either in its entirety or in part, as can also be seen further on page 376; similarly, the response is "relatum," when a petition presented to the Supreme Pontiff has not been heard.

[*Latin ed. p. 371*]

371. CENSUS. Die 24 Augusti 1867. Compendium facti. Patres Congregationis N. acceperunt ab monasterio Monialium B. septingenta scudos, et constituerunt censum in favore Monialium B. pro ratione animarum, scudos 2,70 pro singulis centenis nummis, quae summam annualem constituunt, scudos 18,90. Pro substantia huius census solvendi, constituta fuit quaedam domus eorumdem Patrum, et pro securitate census inscripta fuit in favore Monialium specialis hypotheca super dictam domum, et alia generalis super omnia bona Patrum, adiecto pacto ut, si dicti Patres desisterent ab solvendo censu, liceret Monialibus propria auctoritate et absque ullo Iudicis decreto ingredi in possessionem et uti frui redditibus dictae domus, et, in eius defectu, persequi caetera bona et iura Patrum usque ad integram consecutionem fructuum et census extinctionem. Progressu temporis, ob gallicas vicissitudines in Italiam proruentes, exturbatis Patribus a possessione censitae domus, haec alienata fuit a gallico demanio. Postea, cum pacem compositis, et emptoribus bonorum ecclesiasticorum a debita restitutione a Pio VII. exoneratis, Gubernium Pontificium Patrum dictorum damnum, sicut caeterorum aliqua ratione, compensavit. Scilicet compensationis titulo, Patres receperunt scudos 354, subtracta portione scutorum 112, quot erant obligationes, quibus iidem Patres ex ea domo satisfacere deberent. Hoc accidit die 6 Augusti anno 1821. Interea, Monasterium dictarum Monialium, quod fuerat violenter suppressum, nunquam fuit restitutum; sed ex concessione SSm. Pii VII. die 28 Iulii eiusdem anni 1821, omnia eius iura cum oneribus translata fuerunt in aliud Monasterium aliarum Monialium C. Hae novae Moniales, cum successissent in extincti Monasterii iura, petierunt a Patribus annuam solutionem census, scudos 18,90: sed dicti Patres, putantes se non teneri hoc debito, numquam eam solverunt; Moniales contrarium existimantes, quaestionem denique detulerunt ad SSm. Congregationem Concilii, ut

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dicti Patres.

[*Latin ed. p. 372*]

372 CENSUS. They were to pay the outstanding dues, and to restore the census to its rightful place. A concise summary of the arguments. RIGHTS OF THE NUNS. — In the narration of the facts, the parties in dispute were fully in agreement. The reasoning of the Nuns was simple: they had succeeded to all the rights of the extinct Monastery without any reservation; therefore, they had succeeded to the right of the census, for which the general mortgage affected all the property of the Fathers N. If, however, the Government had imposed the obligation to pay this census, and the Nuns were unaware of what had transpired between the Government and the aforementioned Fathers, then they would not be obligated to fulfill that obligation; rather, they should demand payment of the census from the Fathers, to whom they were immediately obligated. RIGHTS OF THE FATHERS N. — These argued that the aforementioned mortgage, by which all their property had been constituted as collateral, no longer existed, and that their property should be released from that mortgage. To demonstrate this, they recalled the doctrine traditionally held regarding the extinction of censuses. While some, as Covarruvius states in Z. 3, c. 7, n. B, have held the opinion that a census is not extinguished by the sale of the land on which the census was established, others have taught that the census is extinguished, either in whole or in part, to the extent that the land subject to the census perishes, either in whole or in part. Indeed, they explicitly stated that this had been expressly stipulated in the celebrated Constitution of St. Pius V, which begins: "Cum onus edita die 19 Ianuarii anno 1569," in which §. 10 reads: "Finally, we decree that all censuses created in the future shall, not only when the property in its entirety or in part is completely or partially sold, or rendered completely or partially unproductive, but also when sold for the same price, shall be extinguished." Therefore, the Fathers argued, the house in question, which was the basis of the census, should be considered as having been sold, since it was alienated from the French Government and not subsequently redeemed by Pius VII; consequently, the specific mortgage on that property should also be considered extinguished. Regarding the general mortgage on all the property of the Fathers N., they recalled that St. Pius V, in the aforementioned Constitution, §. 1, had decreed: "Therefore, by this our Constitution, we establish that a census or annual payment cannot be created or constituted in any way, unless..."

[*Latin ed. p. 373*]

CENSUS. "A census is a right pertaining to immovable property, or to property held as immovable, by its very nature productive, and which is specifically designated by certain boundaries." Given these premises,

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although the same Pontiff did not prohibit the imposition of a general mortgage on all property, it cannot nevertheless be established that the same general mortgage can secure the census right, lest what He Himself has decreed be perverted. Doubts. I. "From whom, and from what time, does the right to the fruits arise in the case of a census granted to a Monastery (of Nuns)?" II. "Whether and how the mortgage can be extinguished in this case." RESOLUTION. — The Holy Congregation of the Council, having knowledge of the cause on August 24, 1867, responded as follows: To I. Negatively. To II. Affirmatively. FROM WHICH ONE MAY GATHER: I. The contract of a census, which has taken on various forms, after the celebrated Constitution of St. Pius V, in places where it is in force, consists of a kind of purchase of the fruits arising from an alien property, which is determined and circumscribed, and by its very nature is productive. II. Therefore, when a property subject to a census is definitively sold, the right to receive the fruits or the census itself perishes. III. The violent usurpation of a property is equivalent to the sale of the property, whenever the hope of recovering the usurped property has vanished. IV. In the definitive sale of a property subject to a census, the creditor is not aided by mortgages registered on the debtor's property as security for the census. For when a property subject to a census is definitively sold without the debtor's fault, any creditor's right is extinguished by that very fact. V. Once the right to demand the census has been extinguished, the Nuns also lack the right to claim from the Government any compensation for damages; since they themselves did not suffer this damage.

[*Latin ed. p. 374*]

374. OF THE OBLIGATION OF SATISFACTION. July 27, 1867. Summary of precedents. There exists in the City a certain sacred chapel of Saint Martha, which has been entrusted to the care of a certain religious family. The Very Reverend Canon Lewis of Canosa erected it, and dedicated it to Saint Jerome. In the year 1626, he left a bequest for four Masses to be celebrated each week in that chapel, as well as for a hanging lamp that should constantly burn before the altar. This bequest was increased by Canon Anthony of Noci: for he left another bequest, by which he established a second weekly Mass, and he wished that whatever remained should be spent on the furnishings of the sacred chapel. These bequests consisted of nine parcels of land in the Mountains, determined by the Testators (1), and they were to be delivered for execution by the heir, who was the Chapter to which each Canon belonged. The Chapter, retaining the determined endowment of the chapel, fulfilled the dispositions of the Testators. It consisted of a certain ancient decree: "The Chapter is not to be held or obligated to maintain, or to supplement, the aforementioned parcels of land, but it must yield all advantage and disadvantage, all peril, all reduction to the advantage or detriment of

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the same chapel." The revenues from the parcels of land have been gradually diminished by various vicissitudes of the state; for this reason, the Holy Congregation of the Council issued a rescript in the year 1713: The Holy Congregation, having carefully considered the report of the Most Reverend Cardinal Carpini, benignly entrusted to him that, if the aforementioned circumstances are true and if those who should be summoned are summoned regarding the dispositions of Lewis of Canosa, a proportionate amount of the revenues should be allocated, according to the custom of the City, for the celebration of Masses, in the manner of an eleemosynary offering. (1) The parcels of land are nothing other than a certain kind of revenue or dues, which are purchased by the Prince or the Republic through patents and public registers, which serve in place of an instrument.

[*Latin ed. p. 375*]

CONCERNING THE OBLIGATIONS FOR SATISFACTION. 375. He shall, at his discretion and with prudence, order that these matters be freely carried out. Concerning the obligations imposed by a certain Anthony of Noci, he shall regulate and reduce them proportionally, according to his discretion and prudence; yet, so that if revenues should increase, these obligations shall likewise increase proportionally, which must be especially considered during the visitation. And, having again learned of this matter in the year 1826, the Most Holy Apostolic Visitation decreed that the Masses of those same legatees should be celebrated as alms, sixteen in number. But in these recent years, those Religious whose care is entrusted to the house of Saint Martha have presented a humble petition. To the Most Holy Father, they affirmed that since the year 1806 they have received nothing from said Chapter for the fulfillment of obligations, except for a small sum of money paid for certain repairs of lesser importance in that chapel, and they requested that he would deign to decide what should be thought concerning said reduction; or rather, what should be determined concerning the payments not made by the Chapter in past times, and what should be done concerning them in the future. After having requested further information, the Chapter stated that all revenues are absorbed by the alms of Masses, even though these were reduced to a small alms; moreover, since the aforementioned house of Saint Martha is almost always closed, for this reason, and also because of the smallness of the alms of Masses, the Chapter itself, having obtained permission, has celebrated those same Masses outside the city. It proposed, however, that both the celebration of Masses and the expenses of the chapel be transferred to said chapel of Saint Jerome. The Procurator of the Order of those Religious whose care is entrusted to the house of Saint Martha replied that the Chapter ought to restore that sum of money which remained before the revenues of 500 crowns of Monte were reduced,

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that is, from the year 1798 until the year 1815; indeed, the aforementioned Procurator considered that this money should be spent for the use of lamps and the maintenance of the chapel, a sum which the Chapter did not pay during that interval of time, and which he stated amounted to 153 scudi. The Urban Vicar, after hearing the account, considered that there was no longer any need to inquire what the Chapter had received and what it had given, after almost a century had elapsed, and after two Apostolic Rescripts of the years 1713 and 1827, which were issued for a known reason.

[*Latin ed. p. 376*]

376. THE BURDEN OF SATISFACTION. DECREE: The Holy Congregation of the Council, having considered the matter presented through summary petitions on July 27, 1867, judged it fitting to respond as follows: Regarding what has already been provided, it is sufficient; regarding the future, there should be a place for the celebration of Masses in the Chapel of Saint Jerome at Saint Martham, with the number of Masses proportionate to the current revenues, according to the established manual alms of the City, and with a special tax for sacred vessels; in the remaining matters, let it be as decided; having made an agreement with the Most Reverend.

FROM WHICH ONE MAY GATHER:

I. Legacies for Masses, if the funds which were expressly defined by the testator are diminished, it is also necessary to diminish the number of Masses, maintaining the proportion according to the current manual alms, or the synodal tax.

II. Nor should other burdens, which may perhaps be connected with the celebration of Masses, be neglected in such a reduction, as in the present case, the maintenance of the vessels.

III. In the reduction to be made, the testator's intention must be kept in mind, which should be preserved as much as possible.

IV. Finally, it must be understood that the will of the testators cannot be altered or modified without Apostolic authority.

[*Latin ed. p. 377*]

877 FROM THE SACRED CONGREGATION OF RITES. AMELIA. CONCERNING THE BEATIFICATION AND CANONIZATION OF THE VENERABLE SERVANT OF GOD, FATHER FRANCIS, OF THE ORDER OF MINOR FRATERS OF THE HOLY FRANCIS, OF THE OBSERVANCE, BORN AT PRAEMOSELLO, PRIEST. August 1, 1867. After the ordinary process concerning the sanctity of life, virtues, and the reputation for miracles of the aforementioned Servant of God in Amelia, and after the information presented to the Holy See to obtain the approval of the Commission for

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the introduction of the cause; after obtaining said approval, of which we spoke in Volume U, page 36 and following, before the letters of instruction are issued for the conducting of the Apostolic processes, it is necessary that it be established that obedience has been given to the decrees of Urban VIII concerning the public ecclesiastical cult not being given to Servants of God not yet canonized, as we have already said in a similar case in Vienna, related in the preceding volume, page 266. And this is the object of the present cause. Therefore, after the process concerning the lack of cult has been completed in the Amelia tribunal, and after the Ordinary has issued a sentence for the exclusion of the cult, it remained to be judged by the Holy See whether this sentence deserved to be confirmed, so that further proceedings could be undertaken. The confirmation of this sentence depends on two points: first, the records of this process are reviewed to determine whether they were properly completed; and second, the sentence issued is examined to determine whether it was just. Therefore, the advocate for the Venerable Servant of God, in presenting the cause, first demonstrates the validity of the process, and then the justice of the sentence. CONCERNING THE VALIDITY OF THE PROCESS. — It was sufficient for the Advocate to describe the process with clear outlines so that its validity would shine forth. And indeed, at the request of the Postulator of this cause, the Bishop of Amelia appointed three Canons from his cathedral church, one to serve as the Delegate of the Judge, and the other two to serve as Assistants to the Judges: he also designated a Promoter.

[*Latin ed. p. 378*]

378 AMERINA. The Notary and the Advocate: All of them accepted the office, and swore to duly perform it, whether concerning the preservation of secrets, or concerning diligence and fidelity. Then the Advocate for the cause, having presented the witnesses whom he had brought forward, with their names and the articles concerning their examination, requested that days, hours, and places be designated. But the appointed Advocate demanded that the Advocate for the cause take the oath, which is called the oath against calumny, which he did. The days, hours, and places were then designated. To expedite the business, a Scribe was called, who, by oath, bound himself to secretly transcribe the proceedings as they were being carried out. Then the Episcopal Chancellor, who had written these initial proceedings, delivered everything, according to custom, to the Clerk, and the session was concluded. On the following day, with the Delegate Judge, the Assistant Judges, and the Advocate present, three of the witnesses brought forward by the Advocate, who had been summoned, swore to tell the truth in their examinations and to preserve secrecy. Then the Advocate presented his questions, and the examination of the witnesses began in secret; that is, with the Advocate for the cause and others to whom attendance was forbidden dismissed, and the door closed. The examination

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of the other witnesses was then begun and concluded in the same manner. All were examined first on the questions of the Advocate, and then on the articles proposed by the Advocate for the cause. All who were duly summoned were presented with the same oath that the three first had taken, and all, when it was necessary to suspend the examination, were notified of the day on which they should be present. The questions and the answers of the witnesses were always kept closed and sealed, both during the examination and during any suspension, and the Judges, the Advocate, and the Clerk signed each session of the examination. Finally, when all the witnesses brought forward by the Advocate for the cause had undergone examination, and no others were available whom he could bring forward, he ordered two to be summoned from their own office, whom, after the customary oath, the Judges examined according to custom. With all of this completed, at the request of the Advocate for the cause, it was decided to visit the Venerable Servant of God's tomb, the cell in which he had died, and the adjoining monastery. But since one of the Assistant Judges was unable to attend the visit, another was appointed by the Bishop, and he took the oath. Therefore, on the appointed day, the Judges went to the temple, in which the Venerable Servant of God's bones are kept, and afterwards—

[*Latin ed. p. 379*]

AMELIA. 379 Having ascertained, through sworn witnesses, the location of the tomb, they thoroughly examined the tomb itself, the temple, the adjacent areas, and the chamber within, finding no indication of any prohibited cult. They also summoned other sworn witnesses, whose testimonies confirmed the absence of any prohibited practices. Thus, the investigation was concluded. In a subsequent session, since nothing further was needed, the judges rendered their judgment regarding the exclusion of any prohibited cult. Following this, the proceedings were made public. After the clerk, who had been chosen from the beginning, had completed the task assigned to him of recording the proceedings (and who, according to the accountant, was given the closed records), a Notary was chosen, who, bound by a religious oath, would compare the transcript with the original records of the proceedings: after the comparison was properly completed, the judges declared the transcript to be authentic and accurate, and finally, they selected a messenger to carry the sealed document to Rome, as he had sworn he would.

CONCERNING THE JUSTICE OF THE SENTENCE. After describing the structure of the proceedings in this manner, and after examining them, it was evident that the judgment rendered was just, and no one could dispute it. This was easily and briefly demonstrated. For there was nothing about the tomb that distinguished it from others, except for a brief inscription that indicated the name and the year of the deceased's death. Furthermore, witnesses testified that there had not been any lights lit around

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the tomb, and that if anyone had lit a candle, it had been immediately removed by the monks. Nor were any anathemas or other attached offerings found around the tomb. Although many faithful had left signs of benefits obtained through the intercession of the Servant of God at the tomb, the monks diligently removed them. Although images of the Servant of God, whether painted or depicted, may have been present, no one had seen any indication in them of any practice that would be considered objectionable, whether one speaks of rays or halos, or of any inscribed title or inscription; nor had they ever been exposed to veneration. Furthermore, with regard to the relics of the Servant of God, the witnesses also testified that they had not seen them publicly displayed for the veneration of the faithful; indeed, although some relics had been distributed to those who requested them, no document had been added to them to prove their authenticity.

[*Latin ed. p. 380*]

380 AMERINA. This, among other things, was mentioned by the Orator. We abstain from referring to the discussion, since nothing of great importance was observed therein. FROM THE SECRETARY'S ABSTRACT. APOSTOLIC LETTERS. BY THE DIVINE PROVIDENCE OF OUR MOST HOLY LORD POPE PIUS IX, TO WHOM CARDINAL HIERONYMUS D'ANDREA IS RESTORED TO THE INSIGNIA AND PRIVILEGES OF THE CARDINALITIAL DIGNITY. PIUS P. P. IX. For the sake of future remembrance. Aware of Our Apostolic office, through similar Brief Letters dated June 12, 1866, We, Hieronymus D'Andrea, Cardinal of the Holy Roman Church, Bishop of Sabinensem, and Abbot Commendatory of the Abbey of Sublaquensis, because, contrary to canonical sanctions and the Constitutions of Our Predecessors, and despite Our objections, and the urging of other regions to care for his health, he had migrated to Naples, and there continued to remain against Our will, and for other, more serious reasons reported by the administration of both dioceses to Our and the Holy See's consideration, We suspended him, and appointed Apostolic administrators to those same dioceses. Later, for very serious reasons, through similar Brief Letters also issued on September 29 of the preceding year, 1867.

[*Latin ed. p. 381*]

APOSTOLIC LETTERS. 381 As can be seen in the aforementioned Letters, we have suspended the aforementioned Cardinal from all rights, privileges, and insignia of the dignity of Cardinalate, and especially from the active and passive voice in the election of the Supreme Pontiff, and we have assigned him a term of three months, to be counted from the date of these same Letters, within which he must personally and effectively appear before Us to humbly hear Our mandates; and if, within that term, he fails to do so, we declare that he will then be deprived of the Cardinalate and

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the Episcopal See of Sabina, which is attached to his Cardinalate, as well as the Abbey of Subiaco, and other benefices. Now, since the aforementioned Cardinal, within the aforementioned period of time, has returned to the city and has, in writing, rejected his previous actions (1), we have judged that he should be received by Us, and that the honors and privileges of the dignity of Cardinalate should be restored to him. Therefore, we hereby restore the aforementioned Cardinal Jerome D'Andrea to the insignia, honors, and privileges of the dignity of Cardinalate, and accordingly to the active and passive voice in the election of the Supreme Pontiff, by the authority of Our Apostolic power, according to the tenor of the present document. As for the governance of the Church of Sabina and the Abbey of Subiaco, we wish that they be administered and governed by Apostolic Administrators appointed by Us, until otherwise determined by Us, and by the Apostolic See. (1) We read the following article in the official gazette of the city of Rome, dated January 1st, which, translated accurately into Latin, reads as follows: "On December 14th, after having returned from Naples to Rome, Cardinal Jerome De Andrea sent to the Most Holy Father a retraction, according to the mandate given to him by Our Most Holy Lord, according to the Apostolic Brief *Quamquam illius*, issued on September 29, 1867, through the Patriarch of Constantinople, the Secretary of the Sacred College, for the purpose of communicating to him what was to follow. According to those mandates, the aforementioned Cardinal De Andrea sent this act of retraction to the Most Holy Father. " The undersigned Cardinal, obedient to the mandates of the Most Holy Lord, declares: 1st, that he seeks forgiveness for his disobedience, which he committed in Naples, against the will of the Pontiff. 2nd, that he deplores the scandal given to the faithful by his actions regarding the Holy Father, and the Sacred Congregations, through his writings and communications with the Florentine Examiner, whose doctrines he reproves, as the Same Most Holy Father considers them heretical and schismatic. 3rd, that he fully adheres to the Letter of the Catholic Bishops, given in Rome in June 1867. 4th, that he reproves the protests and other acts that he issued against the publication of the Brief of June 12, 1866. 5th, that he humbly asks for forgiveness from the Most Holy Father and his College, and from all those who have been harmed by him in any way. " Rome, December 26, 1867. " JEROME Cardinal DE ANDREA, Bishop of Sabina, Abbot of Subiaco."

[*Latin ed. p. 382*]

382 APOSTOLIC LETTERS. that the aforementioned foundation be established in the Holy See. We desire and command this, notwithstanding any obstacles, even those deserving of special mention, which may arise. "Given in Rome, at Saint Peter's, under the Fisherman's Ring, on the 14th day of January, in the year 1868." In the twenty-second year of Our Pontificate. N. Card. PARACCJANI CLARELLI. APOSTOLIC LETTERS

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CONCERNING THE ORDO EQUESTRIS S. SEPULCRI, WHICH IS DECORATED WITH INSIGNIA OF HONOR. PIUS PP. IX. For the perpetual memory of this matter. "Since Our Predecessors, the Supreme Pontiffs, have wisely established and perfected many things for the benefit of our most holy Religion, it is certainly true that those things which have inflamed the hearts of Catholics with ever greater zeal to strive for virtue and to merit honors and rewards for the good of the Christian republic have been of particular importance. Considering these illustrious examples, We have deemed it Our duty, in Our Apostolic Ministry, to direct Our attention to this matter, especially in this age, which is so fruitful in both wickedness and great virtues, which have spread their splendor far and wide. Therefore, We, who from the early years of Our Pontificate established the Equestrian Order of Pius by Apostolic Authority, now willingly turn Our attention to enriching and adorning the Equestrian Order of the Holy Sepulchre, from which We confidently expect a considerable benefit for the Catholic Religion in the sacred lands of Palestine. For this Order, commended by its ancient origins, and subsequently cultivated by the authority and care of Our Predecessors, is primarily intended to kindle the zeal of men to defend and promote the Catholic Religion in the Holy Land, and to reward their merits with due honor."

[*Latin ed. p. 383*]

APOSTOLIC LETTERS. 388. It is known that, already from the 15th century, the Custos, (or as they are called) the Guardians of the Religious Family of the Observant Minor Friars of Saint Francis residing in Jerusalem, admitted men of outstanding merit from the religious life into the Equestrian Order of the Holy Sepulchre, and from that time, laws and certain statutes concerning said Knights have been in force, which, by Apostolic Letters sealed with lead, published by our predecessor, the blessed Pope Benedict XIV in the year 1745, beginning with the words "In supremo militantis Ecclesiae," were renewed and endowed with new laws and prescriptions. Indeed, We, having before Our eyes the dignity of the same Equestrian Order, in the year 1847, by Letters issued by Our Congregation for the Propagation of the Faith on December 10th, and sanctioned by Our authority, We made suitable provisions concerning those matters pertaining to the governance of the Patriarchal See of Jerusalem of the Latin Rite, and in the same year We restored the exercise of jurisdiction to the Latin Patriarch of Jerusalem, and likewise, in the same Letters, We transferred the right of instituting Knights of the Holy Sepulchre to the aforementioned Patriarch, so that he might henceforth, as the legitimate Administrator and Rector of that Equestrian Order by delegation and in the name of the Apostolic See, be able to confer the Equestrian dignity. Having thus established, by Our authority, matters concerning the administration and governance of

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the Order, We then understood that there were certain things that seemed opportune to be established for the greater splendor of the same. Recently, the Venerable Brother Joseph Valerga, the Latin Patriarch of the Church of Jerusalem, brought to Our attention that only one grade of Knights exists in the Order of the Holy Sepulchre from its origin, and that it is necessary that no distinction of honor be made in rewarding men of outstanding merit, since the reason for greater merit often requires a higher degree of distinction, and that, consequently, either this honor must be reserved for a few, or, if shared with many, the very honor seems to lose its luster among men of greater merit and rank. Therefore, the same Venerable Brother requested that We provide some remedy for this inconvenience, and that We divide the Equestrian Order of the Holy Sepulchre into three grades of Knights. We, therefore, wishing to comply with the requests of the same Venerable Brother, and desiring to promote the splendor of the aforementioned Order, entrusted the matter to three Venerable Brothers, Cardinals of the Holy Roman Church.

[*Latin ed. p. 384*]

384 APOSTOLIC LETTERS. so that they might understand the whole matter and signify their opinion to Us. Having considered the opinion of those Cardinals who deemed it fitting to approve the requests of the Venerable Brother Patriarch of Jerusalem, We, after mature deliberation on all things, by Our Apostolic Authority, in accordance with the present document, decree and ordain that, henceforth, the Order of the Holy Sepulchre shall consist entirely of three distinct ranks of Knights, namely, the Knights of the first class, or of the Great Cross, the Knights of the second class, or the Commendators, and the Knights of the third class, who shall all bear the insignia proper to the Order, in a distinct manner according to their respective rank. The insignia of the Order shall be the Cross, as has been the custom of the same Order from ancient times; a Cross of gold, inlaid with blood-red enamel, which surpasses the four smaller crosses attached to the sides, also inlaid with the same enamel; this larger Cross shall have the form that is commonly called "potentate." However, the dictates of religion require that no crown be placed upon this Cross at the top, in memory of that most pious Prince who refused to accept the royal diadem where Christ Jesus appeared crowned with a crown of thorns. The ribbon, from which the Cross shall hang, shall be of silk, of a wavy pattern, and of black color, as is customary in this Order. The Knights of the first class shall bear the insignia of the Order in such a way that it is supported by a long sash of the aforementioned color, extending from the right shoulder to the left side. We grant, however, that those who are admitted to this class may also enjoy the privilege of wearing on the left side of the chest a large silver medal bearing the insignia of the Order, similar to the medals that are customarily worn on the left side by the Knights of the first class

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of other Orders. The Knights of the second class, or the Commendators, shall bear the insignia of the Order in a larger manner, suspended from the neck by the same ribbon. Finally, the Knights of the third class shall wear the insignia itself in a smaller manner, hanging from the aforementioned ribbon on the left side of the chest, according to the common custom of Knights. Since the Knights of the Holy Sepulchre use a distinctive white vestment by institution, We wish that the decorations on the vestments should differ according to the rank of the Knights, according to the specific pattern of each class, which will be given to the men admitted among the Knights. We trust that they will...

[*Latin ed. p. 385*]

APOSTOLIC LETTERS. 385 men may be inflamed with a desire to dedicate themselves to the service of religion in the Holy Land, and all who are adorned with these insignia shall add honor and splendor to the dignity of the Order itself through their virtue. We confirm the right of choosing and instituting Knights to the Venerable Brother Patriarch of Jerusalem of the Latin Rite, and to his successors, being certain that the dignity and importance of the aforementioned Order will always be highly esteemed by all, since the insignia are conferred by a special delegation and in the name of the Holy See itself. We wish that the aforementioned Patriarch of Jerusalem of the Latin Rite, and his successors, in granting these insignia, must follow that norm and prescription entirely, which We have sanctioned by Our authority and commanded to be delivered to the aforementioned Patriarch by Our Secretary through a Brief. We decree this, notwithstanding anything to the contrary, to the extent that it is necessary, without prejudice to Our and the Apostolic Chancery's regulations regarding the matter in question, nor to the statutes and customs of the aforementioned Order, confirmed by an Apostolic oath, or by any other means of strengthening, nor to other Apostolic Constitutions and Ordinances, worthy of special mention, and to anything else contrary. "Given at Rome, at St. Peter's, under the Fisherman's Ring, on the 24th day of January, 1868. In the 22nd year of Our Pontificate." "Place: [Signature] N. CARD. PARACCIANI CLARELLI. FROM THE HEARING OF THE MOST HOLY LORD, A GENERAL INDULGENCE IS GRANTED TO THE FOLLOWING PRAYER. Most Blessed Father, WE HUMBLY BEG. "The Rector and Council of the Apostles of Prayer in France, who strive to foster and spread devotion to the Sacred Heart of Jesus through the periodical, entitled 'Le Messager du Cœur de Jésus,' humbly implore Your Holiness to grant, in order to more effectively kindle the hearts of Christians with this love, to those who, with at least a contrite heart, recite the verse long received by the Church: 'JESU, MITIS ET HUMILIS CORDE, FAC COR MEUM SICUT COR TUUM' [Jesus, meek and humble of heart, make my heart like unto Thine], a plenary indulgence of three hundred days, applicable also to the souls of the faithful who are

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being purified by the fire of purgatory. REPLY. "Granted, according to the custom of the Church. January 25, 1868." "PIUS IX, POPE." "A certified copy of this reply has been exhibited in the Secretariat of the Sacred Congregation for Indulgences, to be kept there according to the Decree of April 14, 1856." "A. COLOMBO, Secretary. Acts, Vol. III, p. 31."

[*Latin ed. p. 386*]

386 APPENDIX V. Apostolic letters, by which the Armenian province of Constantinople, having lost its metropolitanate and archiepiscopal title, is united to the Patriarchate of Cilicia, and certain principal points of discipline are established. "The pious Bishop, servant of the servants of God," mindful that "all the Churches should be under one [Apostolic] See," and that "nothing should ever be separated from its Head," for the perpetual memory of this matter, established the ecclesiastical institution in such a way that, as Our Predecessor, Pope Leo, noted (1), "the dignity of the Patriarchate has always been such that, among the most blessed Apostles, in whose Churches the blessed Peter founded [his See], there has been a certain distinction of honor." Thus it came to pass that nothing was more pleasing to the Patriarchs themselves than to receive letters of confirmation from this [Apostolic] See, knowing that the Lord, through this, was bestowing upon them a solid dignity and authority. For to Him alone was the supreme power attributed by Christ the Lord to feed, not only to acknowledge, the sheep and the lambs, that is, to govern and guide the entire Church, so that it might be understood that in the flock of Christ, there should be no one who does not recognize Peter as the Shepherd. "Concerning matters of discipline referred to this same See," as the same Pope Leo said, "the distinction among Bishops also arose, and with great deliberation, it was decreed that not all should claim everything for themselves, but that in each province, those among the brethren who held the first place should have a certain authority; and again, that certain individuals should be established in the larger cities to undertake a wider responsibility, through whom the acts, the institutions of the Saints, and the decrees of the universal Councils..." (1) Epist. ad Anastasium Thessalonicen.

[*Latin ed. p. 387*]

ix. And those monuments of the entire history of the Church so clearly demonstrate, that no one should presume to call into doubt this supreme authority of the Roman Pontiffs, especially in view of the most grievous schism of the East. Although that schism has dispersed almost all the Eastern Churches from the center of unity, it has not been able to obscure this Catholic truth, nor to completely eradicate it from the minds of the Orientals. For, besides the fact that countless peoples, called from the darkness of idolatry or heresy, have come to this Roman Church because of its greater leadership, and continue to come daily, even the Eastern Churches them-

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selves, whenever they have returned to the good fruit of divine grace, have solemnly professed the primacy, not only of honor, but also of true jurisdiction, which was attributed to St. Peter and his successors in the Roman See by our Lord Jesus Christ. This primacy, although always recognized and held in the highest honor by the ancient Councils and by the entire Church, was solemnly affirmed by the Œcumenical Council of Florence, in which the Greek prelates met with the Latins, so that those who would dare to corrupt so clear a truth would become all the more inexcusable. Oh, that the Eastern prelates had steadfastly held this dogma of the Christian faith! For then their Churches would not have fallen into that most miserable condition in which they find themselves after the inflated or reestablished schism. Indeed, besides the most grievous calamities which have resulted from their defection from this Apostolic See, the vigor of the canons, and the integrity of ecclesiastical discipline, and the order and majesty of the sacred hierarchy have been most miserably weakened among them. And it has been the inscrutable judgment of God, that the prelates of those Churches, who have scorned the divinely instituted authority of the Supreme Shepherd of the Church, are oppressed by the yoke of the laity, and even of the infidels, so that neither the ordinary and immediate jurisdiction of the bishops in their dioceses, nor the canonical authority of the patriarchs over their bishops, remains secure: while, contrary to the Apostle's warning to his clergy, the clergy themselves, and the people, either fail to observe the statutes of the canons, or, with a boldness that should always be lamented, are compelled to renounce them. The Roman Pontiffs, Our predecessors, moved by the misfortune of the Eastern Churches, have left nothing untried in order to bring back the wandering sheep into the one fold of Christ. This they have sought to achieve through many gifts, even encyclicals, through the celebration of Œcumenical Councils, and especially through the sending of Apostolic men to the Eastern lands, whose sweat and labor...

[*Latin ed. p. 388*]

388 APPENDIX V. Those vines, flourishing with numerous branches and beset by sorrows, finally found sustenance when the Supreme Turkish Empire, when it was about to revive, separated them entirely from the schismatics, and compelled the Armenians of Armenia to obey, to submit to the Patriarch of the schismatic Church, and to fulfill obligations, whether sacred or civil, which they had previously held. Among others, as we shall pass over for the moment, the Armenians are to be mentioned.

Now that the Armenians of Armenia have been restored to ecclesiastical liberty, it pleased Our Most Holy Pope Pius Eighth to establish in Constantinople an Armenian Primatial and Archiepiscopal See, according to the Apostolic Constitutions. "This has long been the case," says the sixth day of July in the year of Our Lord one thousand eight hundred and thirty,

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under the seal of the Fisherman, and to join it more closely to this most blessed See of Saint Peter, so that those who adhere to it may adhere to it all the more firmly and fruitfully in the profession of the Catholic truth. For, as the aforementioned Saint Leo (1) taught, "In the line of Patriarchs attached to this Apostolic See, all strength follows." "It is strengthened by a most excellent example of faith, and divine grace is so ordered that the strength which was given to Peter by Christ is conferred upon the other Apostles through Peter." As the Catholic Primatial See, established by us, was so opportunely constituted, we were able, after a few years, to bring this evil to an end: for it pleased Almighty God to give a voice to the virtuous Christian Emperors, to their Legates, and to the Armenian Archbishop of Constantinople (1) *Serm. 3 in Annivers. Assumptionis suae.* (2) *Litt. Apóstol. Universi 30 Aprilis 1850 - Assidua 9 Maii 1865.*

[*Latin ed. p. 389*]

IX, v. 389: Primates are supported. Moreover, we would deem it fitting to grant the Armenian Bishop of Hispahan, and for this reason, to the Armenian Catholics, jurisdiction and discipline within the ecclesiastical province of Cilicia, which We established near Persia, and to bestow upon him the title of Primate, as a provisional measure of unity. Therefore, having considered this matter with the Venerable Fathers, Our Cardinals of the Congregation for the Propagation of the Christian Faith for the Churches of the Orient, We have decided (1), until the number of Catholics, with God's help, increases, and a more suitable arrangement can be devised.

Although the Armenian province of Constantinople had been so favorably considered, We deemed it necessary to grant the Armenians Our assent.

Therefore, having invoked divine grace for the definition of this matter of such great importance, for the praise and honor of the Almighty God and the Most Holy Virgin Mary, conceived without sin, and of the Blessed Apostles Peter and Paul, and also for the exaltation of the Catholic Faith, and being able, through Our Apostolic authority, to act in the best interests of the Church, We decree that the Primatial and Patriarchal Sees of Constantinople and Cilicia be united. This union, which has been repeatedly requested by the Most Blessed Gregory and Pope Paul XVI, Our Predecessor, and by the aforementioned Armenians, cannot be fulfilled.

Recently, after the death of the Most Blessed Gregory Peter, Patriarch of Cilicia, the bishops of that Patriarchate, convened for the purpose of electing a successor, and, acting in accordance with the views of Our Predecessor, as stated in the aforementioned Apostolic Letters concerning Armenia and Constantinople, they unanimously decided to abolish the title of Primate and Archbishop, which the aforementioned Pius Predecessor had bestowed. Then, with equal authority, the Armenian ecclesiastical province of Constantinople was permanently united to the Patriarchate of Cilicia;

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We command that the new Patriarch, and his successors, enjoy the title of Patriarch of the Armenians of Cilicia; We humbly implore them to reside in the city of Constantinople, and to carry out the aforementioned union there.

(1) Apostolic Letter, dated April 30, 1850.

[*Latin ed. p. 390*]

390. We desire that the political Church be governed by ordinary ecclesiastical jurisdiction. Moreover, we wish that the aforementioned Patriarchate be restricted by the same limits as the Patriarchate of Cilicia and the Patriarchate of Constantinople in the present state. "In order that this, a nearly new constitution of the Armenian Patriarchate, may contribute to the good of souls, and that the most serious damages, which might arise from an uncertain or inadequately established ecclesiastical order, may be averted and prevented, by our own authority and with full knowledge of the fullness of the Apostolic power, we establish and decree the following certain heads of the same order (always preserving the rites of the Orientals instituted by the Holy Fathers and approved by this Apostolic See) to be inviolably observed in the aforementioned Patriarchate for all future times."

"And first, that certain chapter, which some Armenian priests requested three years ago, and which the late Patriarch Gregory Peter Octavius, as we have learned, illegitimately established in the year of Our Lord one thousand eight hundred and fifty-one, to which certain pretended rights or privileges were attributed injurious to the episcopal and patriarchal dignity, and also any other pretended chapters, if any should perhaps exist within the boundaries of the aforementioned Patriarchate as established above, we abolish by our Apostolic authority; forbidding that similar chapters be ever instituted in the Armenian Patriarchate in the future.

"When the Patriarchal See is vacant, no one, who does not possess the episcopal character, shall ever be permitted to cast a vote in the election of a Vicar who will govern and administer the vacant Patriarchate.

"In the election of the Patriarch, only Bishops shall have the right to cast a vote, excluding entirely Clerics and Priests who do not possess the episcopal character. No lay person shall be permitted to insert himself in the same election, or to have any part in it, under any pretext or pretense whatsoever.

"Furthermore, the elected Patriarch shall not, as they say, be enthroned, nor shall he have any right or jurisdiction, not even as a procurator or vicar by name or title, in the Patriarchate, unless his election or nomination has first been admitted and confirmed according to custom by Us or by the Roman Pontiff for the time being, and the Apostolic letters of confirmation of the same have been issued, removing any contrary custom.

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"To the same Patriarch, even after being confirmed as above by the Apostolic See, it will not be permitted to consecrate Bishops, nor to convene a council, nor to prepare the chrism, nor to dedicate churches, nor to ordain clerics, before he has received the sacred Pallium from the Apostolic See.

"Concerning the aforementioned Pallium..."

[*Latin ed. p. 391*]

"II. The archiepiscopal mitre may only be used in the solemnities of the Mass within the territory of Fismes and in the churches of his Patriarchate on the following days: namely, on the Nativity of Our Lord Jesus Christ, on the feasts of Saint Stephen the Protomartyr, Saint John the Apostle and Evangelist, the Circumcision of the Lord, the Epiphany thereof, Palm Sunday, on the Thursday of the Lord's Supper, the Sabbath, the Sunday of the Resurrection with the two following days, the Sunday in Albis, the Ascension of the Lord, the feast of Pentecost, the Most Holy Body of Christ, and also on the four feasts of the Blessed Virgin Mary, namely, the Purification, the Annunciation, the Assumption, and the Nativity of the same; to which, at the humble request of the aforementioned Venerable Brother Anthony Hassun, elected or Postulated Patriarch of the Armenians of Cilicia, we add the feast of the Immaculate Conception of the same Divine Mother Mary; also on the feasts of the Nativity of Saint John the Baptist and of All Saints, and also on the feasts of all the Apostles, on the dedications of churches, on the principal feasts of his church, on the ordinations of clerics, on the consecrations of bishops and virgins, and on the anniversary days, both of his own consecration and of the dedication of the church. "The Holy Thresholds of the Most Blessed Apostles Peter and Paul shall be personally visited by the Patriarch every five years, and he shall render an account to the Roman Pontiff for the time being existing of his entire pastoral office, and of all matters pertaining to the status of his Patriarchate; and he shall humbly receive and diligently follow the admonitions and mandates thereof. The Patriarch himself shall not be able to sell, or give away, or pledge, or newly enfeoff, or alienate in any other way, possessions belonging to the Church or to his table, or to other churches, or to pious places of his Patriarchate, nor shall he consent to their being alienated by anyone, without the consultation of the Roman Pontiff, according to the form of an oath, which elected Patriarchs of the Eastern rite are required to make at their promotion. "Truly, nothing more troubles and grieves Our heart than the provident selection of bishops, from which especially depend the happiness of the people, the order of ecclesiastical discipline, and the eternal salvation of souls. Therefore, constantly remembering that the Lord Jesus Christ will require from Us the blood of the sheep of Christ, which perish through the negligence of shepherds who are careless and forgetful of their office, and that He has demanded from Our entire Church, as much as it is, governance and solicitude, We, by the tenor of Our Apostolic

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ministry and the fullness of Our power, decree the following concerning the election of bishops of the Armenian Patriarchate: ”

[*Latin ed. p. 392*]

APPELL DIX v. 392, considering the present state of affairs, we establish and decree the following, determined by the same Congregation: ”Whenever any metropolitan Patriarchate becomes vacant, the Patriarch, as soon as possible, shall convene a synod of all the Bishops of that same Patriarchate; having done so, the Patriarch, together with the Bishops and suitable ecclesiastical men, duly consulted, shall propose to the Supreme Pontiff, for the time being, three men who are more worthy and more suitable to be chosen, and to provide for the vacant Episcopal See. We have clearly decreed this, so that it may be possible. We do not doubt that these Bishops will propose truly worthy and truly suitable men, so that We or Our Successors may never be compelled, for the sake of the same Apostolic ministry, to elevate to the Episcopal dignity, and to appoint to the vacant Church, anyone else, even if not proposed by them. And We reserve to Ourselves and to Our Successors the power to confirm in this matter those things which, in the aforementioned Patriarchate of Cilicia, are to be observed for the time being, regarding places and persons, so that the Synod, as mentioned above, may be more expeditiously carried out in the Lord.

We also decree that these Our letters shall always and whenever be valid and effective, and shall have their full and complete effect, and shall be inviolably observed by all to whom they pertain, so that at no time, for any reason whatsoever, they may be declared invalid or null, or be impugned for lack of Our intention; and so that, likewise, they shall not be judged or decided upon by any other judges.

[*Latin ed. p. 393*]

393 IX. Those who, whether acting as officials or as delegates with any authority, are deprived of the power to judge or interpret in any other way, must be judged and defined. This is done notwithstanding Our regulations and those of Our Apostolic Chancery, ”De iure quaesito non tollendo,” and all other constitutions and ordinances issued by the Apostolic See, even in Synodal, Provincial, General, and Universal Councils; as well as the statutes and customs, privileges and indulgences, and Apostolic letters, under whatever terms and forms, and with whatever clauses and decrees, granted to the Patriarchal Church of Cilicia and the Primatial Church of Constantinople, even if confirmed by an Apostolic oath or by any other means of affirmation; all of which and each of which, having the aforementioned present text as fully and sufficiently expressed, for the widest and most complete effect of all and each of the aforementioned, and especially and expressly, and also opportunely and validly, We derogate from, and We annul, all other contrary provisions, even those worthy of spe-

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cial mention. Therefore, no human being whatsoever may dare to infringe this page of Our extinction, union, abolition, constitution, prohibition, inhibition, prescription, precept, mandate, decree, will, intention, reservation, and derogation, or to contradict it with audacious temerity. If anyone should presume to attempt this, let him know that he will incur the indignation of Almighty God and of the Blessed Apostles Peter and Paul.

Given at Rome, at St. Peter's, in the year of the Incarnation of Our Lord one thousand eight hundred and sixty-seven, on the fourth day before the Kalends of July, in the twenty-second year of Our Pontificate.

Francis Vici

Subdatarius N.

Card. PARACCIAWI CLARELLI

Loco Visa de Curia

D. Bruti Plumbi

/. Cugnonius

[*Latin ed. p. 394*]

894 APPENDIX V. APOSTOLIC LETTERS, WHEREBY THE REVEREND FATHER ANTONIUS PETRUS HASSUN IS APPOINTED PATRIARCH OF THE ARMENIAN CHURCH OF CILICIA. They clothed him, calling him Peter IX; and having sent to Us the most obedient letters of Thy SERVUS OF THE SERVANTS OF GOD, they requested that We might be willing to grant the aforementioned petition of the Venerable Brother Anthony Peter Hassun, who had recently professed that he had been elected or nominated as Archbishop of the Armenians in Constantinople, in the Patriarchal See of Cilicia, so that, by this means, the long-desired union of that Primatial See with the eternal Pastor Prince, who is charged with the feeding, governing, and guiding of the universal Church, might be more easily achieved, and that the Apostolic blessing might be bestowed upon him.

"It has been entrusted to the humility of Our See, with the aforementioned Pastor Prince of Cilicia, to eternally feed, govern, and guide the flock. Approving of these sentiments, We, by Apostolic Letters dispatched this very day, grant to him the Primatial and Archiepiscopal title, and We urge that to all Churches, and especially to Patriarchal Churches, We commend worthy and truly suitable pastors, whom We entrust to that Patriarchate, that they may learn from the pastures of the past, by word, by deed, and by example, to lead the people entrusted to them to salvation, and to provide them with all that is entirely necessary. PIUS, BISHOP, through the paths of God's commandments, without ceasing."

Indeed, the Patriarchal Church of the Armenians of Cilicia was vacant, to which most recently presided the Blessed Gregory Peter VIII, who

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fulfilled the debt of nature outside the Roman Curia. The Venerable Brethren, Our Catholic Bishops of the same Patriarchate, convened in Armenia, at the Church of the Assumption of the Blessed Virgin Mary of Mount Lebanon, presided over by the Venerable Brother Joseph Valerga, Patriarch of Jerusalem, and Our Pro-Delegate of this Holy See in Syria, have thus far elected or nominated You, the Archbishop of the Armenians of Constantinople, as their Patriarch.

"We are indeed aware that You have, for a long time, demonstrated the utmost of Your religion, piety, and sound and salutary doctrine, and that You have shown fidelity and obedience to Us and to this Chair of Peter, and that You have displayed fortitude in matters pertaining to the Catholic episcopate and the defense of the liberty of the Church; and We also observe that You solemnly professed the profession of the Catholic Faith, according to the form prescribed by Our predecessor, Pope Urban VIII, before Our beloved son, Alexander, Presbyter of the Title of Saint Susanna, in the Holy Roman Church, Cardinal Barnabò, Prefect of the Congregation of the Propagation of the Faith for the Affairs of the Oriental Rite. Furthermore, You rendered due honor to Us and to Our..."

[*Latin ed. p. 395*]

"Having taken the oath of fidelity in Our hands, to the Venerable Brothers Our Cardinals of the aforementioned Congregation, by the counsel, election, or petition of such individuals, according to the decree of the aforementioned Apostolic Congregation, We, by the tenor of the present document, admit, approve, and confirm, and We heal all and whatsoever defects, even substantial ones, that may have occurred in said election or petition. And you, from whom any suspension and interdict, or other ecclesiastical sentences, censures, and penalties have been imposed by law or by man, if you are in any way subject to them, for the sole purpose of the effect of the present, We, absolving and considering you absolved from them, by the counsel of the same Brothers Our, and by the Apostolic authority of the Patriarchal Church of the Armenians of Cilicia, We fully entrust to you the care, governance, and administration of that Church in spiritual and temporal matters, strengthened by firm hope and confidence, that, relying on divine assistance, you will diligently and solely seek those things that are of Jesus Christ, and that you will strive to confirm Catholics daily more and more in the profession of Our most holy Faith, and to bring back those who are erring in all patience and doctrine to the bosom of the Holy Mother Church, and that you will strive to fulfill all other most important parts of your ministry with the utmost care and diligence.

Therefore, to your Fraternity, through these Apostolic writings, We command that, eagerly accepting the burden imposed upon you with the grace of Our blessing, you carefully observe and ensure that the mandates of this Holy See regarding the restoration of ecclesiastical discipline in the

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Armenian Patriarchate are observed, and that you have, as soon as possible, a synod with the Bishops of the same Patriarchate, and that you hasten to send the acts and decrees thereof to the same Congregation, with the understanding that the execution of those same decrees is prohibited in the meantime, until they have been approved by Our supreme and Apostolic judgment. We also wish that, with the Patriarchate entrusted to you, the ordinary jurisdiction of the Bishops in their dioceses remain firm and intact, and that you diligently strive; that you take care that the parish priests and other pastors of souls diligently perform their duties, especially in the preaching of the divine word and the instruction of Christian doctrine, which, we lament, are greatly lacking in some places; that you strive to instruct the clergy and other priests in piety, doctrine, and ecclesiastical discipline; and that you endeavor to lead the clergy and the faithful people on the path to salvation, so that you may add encouragement to those who are progressing well, stir up those who are sluggish, and that you may strive to bring back those who are straying, before they fall into the abyss, to the right path, as a pious pastor should.

Thus, may that Patriarchal Church rejoice that it has been entrusted to a faithful and prudent pastor, and may you, in addition to the reward of eternal retribution, also deserve to receive more abundantly Our grace and blessing."

[*Latin ed. p. 396*]

396. Finally, We command all Catholic Bishops of the Patriarchate of Cilicia, that they show You canonical reverence and obedience: We exhort the Clergy and Monks, that they revere Your authority, and that they diligently and promptly obey Your warnings and commands, preserving, as stated above, the rights of Bishops: The Catholic Armenian people, who are contained within the aforementioned Patriarchate, should receive You as their legitimate Patriarch, and should follow You with due honor and obedience.

Given at Rome, near St. Peter, in the year of the Incarnation of the Lord one thousand eight hundred and sixty-seven, on the fourth day before the Kalends of July, in the twenty-second year of Our Pontificate.

Francis Vici Subdatarius N. Card. PARACCIANI CLARELLI. Visa de Curia Loco J£I Plumbi D. Bruti L Cugnonius.

APPENDIX V I. CONCERNING THE CONSENT OF THE PARISH AND THE PEOPLE IN THE DIVISION OF PARISHES.

In these present times, nothing is heard more frequently than the consent of the people in matters of public administration, a consent which is not only considered, by human law, perhaps established or to be established, as a condition for the proper governance of the republic, but is praised as the supreme and inalienable right of the people. Therefore, it is easy

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to apply opinions of this kind to canonical matters; although the entire tradition proclaims that in the Church, there are those who are established by divine law to preside, others who assist, others who command, and others who obey. In recent years, We have seen some cases from Italy that have been brought to Rome, in which the people have been consulted about the matter of parishes, and they have behaved in such a way that it seemed as if a plebiscite were being held, so that from their consent or dissent, the canonical question would be defined by law. Therefore, it is fitting to recall some things, so that such solemnities in the division of parishes may be properly assessed.

We have no text of canonical law which prescribes that the consent of the people must be sought in the division of parishes; moreover, few interpreters even mention, let alone treat, the matter of seeking this consent; indeed, many mention that the pastor of the parish to be divided should be heard, although even these do not speak in the same sense, but most are completely silent on the question of hearing the people, and even more so on the question of seeking their consent. But if we seek the origin of the matter, the interpreters of canonical law adhere to the principle that, in the alienation of Church property, those whose interests are involved must be heard, as they expressly state from chapter 1, concerning things.

[*Latin ed. p. 397*]

APPENDIX V I . 397 The Church is not alien; in the 6th canon, this is testified, and the reason for the division is this: a certain parish was so burdened that it could scarcely sustain itself; the Bishop, with the consent of the chapter, considered the matter and, in order to provide for the sustenance of the vacant parish, separated the tithes and united them with another. Thus, each could easily contribute to the archdeaconry, without any prior notice, as is evident from the nature of the matter: the new parish priest requested the tithes, as his predecessor had requested them, for the benefit of the parish and the people; but, after inquiring about the division of parishes, the archdeacon opposed, and the matter was resolved by Innocent I V., who wrote as follows: "Because, in the granting of [something], a grave detriment to the temporal goods would result if the church, being vacant, lacked a legitimate defender, who should first be appointed by the same Bishop; therefore, such deductions appear to have less value, if they are considered in accordance with the Constitution of Alexander III, in chapter 3, concerning ecclesiastical matters, which is to be kept in mind in perpetual divisions and alienations of ecclesiastical property. We decree that, in such cases, it should be held as follows: 'It must be understood that, besides the evident necessity or utility in the separation of things belonging to a parish church, it must be done solemnly and with due legal process, summoning the Rector of the church, or his defender, if the church is vacant, so that he may be heard, lest he be harmed without his own

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consent. From this, the authors infer that those who are to be summoned and heard are those whose property is being alienated. They also include the Rector, the Patrons, if any, and, some add, the people; indeed, some (speaking with less accuracy) write that the consent of the parish priest and the people is necessary. This is because the Rector or parish priest is concerned with the diminution of offerings, the loss of benefits, etc., which affects the people. Since the church is said to be so abundant in resources, and, besides the income of the parish, the produce of the land is sufficient to maintain the priest, we decree that, if this is the case, a priest should be appointed to the church there, without any obstacle from an appeal, and that he should be instituted by the Rector of the larger church, with the consent of the canon, to provide for his sustenance from the revenues of that village; provided, however, that due honor be maintained for the local parish, which can indeed be done, since the lord of that village wishes to give twenty acres of arable land for the use of the priest."

[*Latin ed. p. 398*]

398 APPENDIX V I. to confer. If, however, a person presenting a petition to the church fails to present a suitable man, or wishes to obstruct the matter, you must nevertheless ensure that the work is brought to completion, and you must appoint a good man, without any hesitation. In this Constitution, if you consider the solemnities, you will find nothing that refers to the consent of the parish priest, whereas, on the contrary, it is stated that the parish priest cannot obstruct the work, and therefore, in the absence of a canonical reason, his consent is in no way required; this was expressly established by the Council of Trent, in the place cited, which stated: "In those cases, in which, due to the distance or difficulty of the place, the parishioners cannot easily access the sacraments and attend divine services, new parishes may be established, even without the consent of the rectors, according to the form of Alexander III., which begins, 'Ad audientiam'; from which it is clear how improperly those authors reveal their minds, who, when speaking of these solemnities, teach that the consent of the parish priest is required. Regarding the people, in the Constitution of Alexander III., not a word is mentioned; nevertheless, the name of the people appears in the Constitution of the Council of Trent, in the place cited, which continues: "To those priests who are to be appointed to newly erected churches, a portion shall be assigned by the Bishop from the fruits belonging to the mother church in any way, and, if necessary, the people may be compelled to provide what is sufficient to support the life of said priests." Therefore, those few authors, who, when dealing with the division of parishes, mention the need to inquire about the consent of the people, raise the question of whether all the parishioners must consent, and whether the majority of the parishioners, or at least one-third, is sufficient; these authors are cited by Barbosa de Epis. All. 68: for nowhere is

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it prescribed that the consent of the people is necessary for the Ordinary to proceed to the division; it is sufficient that there is a canonical reason, and the people can be compelled to provide sustenance to the new parish priest. However, although the consent of the parish priest, nor the consent of the people, is necessary in the division of parishes, the question may be raised whether the Bishop is obliged to cite and hear the parish priest before proceeding to the act of division, whether he dissents or consents, and to what extent is he obliged, and whether, if this citation is neglected, the act is invalid by law, or whether it can be rescinded at the request of the interested party. The ancient authors, insisting with all their might on the form in chapter 1 of "De reb. eccles.," as previously quoted, and similar legal chapters, teach that such a citation is so necessary, even in the division of parishes, that without it, there is no act, so that this citation is required as a matter of form, and not merely to avoid prejudice: and many subsequent authors of the Council of Trent have followed this teaching of the ancients, and it is found in some decisions of the Holy Rota; and according to Fagnano, the Sacred Congregation of the Council followed the ancient resolutions. It is appropriate to illustrate the matter with examples: Pyrrhus Corradus, in "Praxi Beneficiaria" I. 3. c. 2, wrote: "Whenever such a division takes place by the Ordinary, both the solemnity and the cause are absolutely required; unless it is said otherwise when it is done by the Pope; because, with regard to the solemnities required for it, they are fulfilled by his authority. The reason why these solemnities are required, and the cause, is declared in one of the documents from Toledo."

[*Latin ed. p. 399*]

APPENDIX VI. » From the Parish Records of Madrid, February 1, 1602, it is stated that the consent of the Rector is required, not only for his own benefit, but also to ensure that the law is observed strictly, for the public good, so that churches are not deprived of resources, as is explained extensively in a document from Senogallien. In Rome, on December 10, 1568, before Finetto, it was stated that the subsequent consent of the Rector does not validate any alienation; however, it is understood that the Rector himself cannot contradict.

Fagnanus, in chapter "Ad audientiam" (Concerning Hearings), number 29, wrote: "Thirdly, it is principally required for the erection of a new parish that the Rector of the mother church be summoned; for although the erection can be carried out even against his will, it cannot be done except with his summons and consent, as stated in chapter 'Multis.' Furthermore, the Holy Congregation has judged that, for the erection of a new parish, no action should be taken other than with the summoned parish rector, within whose boundaries the new parish is to be erected; and any erection carried out without such a summons by the Ordinary is considered to be of no consequence."

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"Not only the Rector of the church, but also the summons of all others whose interests are involved is required. In response to an inquiry as to whether the consent of the Rector or the Commendatory, or the Grand Master, is required to erect a new parish within the limits of a parish subject to the Order of St. John of Jerusalem, it was answered: that the erection can proceed even without the Rector's consent, provided that the summons of both him and all others whose interests are involved is given."

"However, considering the practice followed by the Holy Congregation of the Council, although the Holy See does not allow a dismemberment carried out by the Ordinary without the knowledge of all those whose interests are involved, including the people; nevertheless, it does not seem to consider the act of summoning those whose interests are involved as a formal requirement, the neglect of which would render the dismemberment invalid, but rather as a formality that contributes to the understanding of the case and to avoiding prejudice. And in this matter, it is important to recall the case considered by the Holy See concerning the Dismemberment of the Parish of Spoleto, on October 3, 1716, as reported by Ursaya in 'Discept. Eccles.,' volume 5, page 1, discussion 29. The situation was as follows: A certain parish priest named Petronius, whose parish included several towns, was summoned to court by the parishioners of Valle Longa, who claimed that a priest should reside in Valle. The case was heard, and the parish priest was acquitted, but he was ordered to appoint a chaplain in Valle, who would be supported by the expenses of himself and the people; this order was not enforced. Sixteen years later, during a visitation in Valle Longa, a large group of villagers approached the Bishop, insisting on the dismemberment of Valle from the parish; after much discussion, Petronius, the parish priest, agreed under several conditions. Then the Bishop issued a decree of dismemberment and established a new parish. Subsequently, the parish priest appealed to the Holy See, and Ursaya argued the case for the parish priest, claiming that there was a defect in the formalities of the dismemberment: 'To the initial dismemberment is joined this obvious nullity, from which it resulted that, without formalities and without a judicial form, while Petronius was not summoned, nor was a Defender appointed for the successors in the parish, all of which should have preceded for the validity.'"

[*Latin ed. p. 400*]

400 APPENDIX Y I. » concerning the dismemberment, firmly established by the Council in decree 1048 » n. 5 and following, before Emerix the younger », where it was said: Without prejudice to what is stated in the letters of dismemberment, the Bishop has proceeded in the cause, having previously been informed, during the actual visitation, and having simultaneously obtained the consent of the people and of the Archpriest himself. For these things ought not to depend on the assertion of the parties,

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or even on the authorization of the Bishop granting the dismemberment, but must be established positively from the aforementioned process. Nevertheless, a doubt was presented to the Sacred Congregation of the Council on October 9, 1716: « Whether a dismemberment is permissible with the conditions attached to it. » A response was issued, stating: The status of both parishes is maintained, without the dismemberment being delayed in its execution in the meantime. From this it appears that the Sacred Congregation considered the dismemberment to be valid, although it was not carried out in a judicial form. This is consistent with the resolution in the case, which was presented in vol. I, page 520, and can be consulted in another case presented there on page 543. Indeed, this method of proceeding seems more in conformity with the disposition of Trent, which did not consider the dismemberment of parishes as a mere alienation of ecclesiastical property, in which those solemnities are to be observed by law, not excluding the consent of the Chapter; but rather prescribed a special form and manner, so that the Ordinary may more easily consult the spiritual needs of the people in those parishes, in which, due to the distance of the places and the difficulty of travel, the parishioners cannot access their own Parish Priest without great inconvenience, especially since, for the safer preservation of souls, ample power has been granted to the Bishops in chapter 13, session 24, of the Council of Trent, §. In those matters. On the contrary, when it was a question of the mere dismemberment or union of benefices (which, with regard to canonical solemnities, are equivalent in law), the Fathers of Trent strictly forbade them, »^! to be carried out in a solemn judicial form, in session 7, chapter 6, of the Council of Trent, edicting: Perpetual unions... which, from now on, unless they are carried out for legitimate or other reasonable causes, before the local Ordinary, with the vocal participation of those concerned, shall entirely lack validity.

[*Latin ed. p. 401*]

401 FROM S, CONGREGATION! OF MARRIAGES. February 1, 1868. Session 24, chapter 1, concerning the Reform of Marriages. A summary of the case. Livius, aged 22, having decided to marry Caia, aged 19, performed all the ceremonies customary in Lima, in the Republic of Peru. For it was the custom in that city that, in marriages contracted between parishioners, the betrothal and other ceremonies should be performed in the Episcopal Curia; after which, a written document or license was issued to the Parish Priest for the celebration of the marriage. Therefore, on December 20, 1843, Livius requested the Vicar General to grant him said license, to be delivered to either of the two Parish Priests to whom Caia belonged. It is to be known that in that parish, there were properly two Parish Priests exercising their office simultaneously, having from ancient times solid jurisdiction over the parishioners. The Vicar General granted Livius' request; but he did not

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entrust it to either of the Parish Priests, but to the Vice-Parish Priest, to make the customary announcements, and to return the testimony to the Curia. Indeed, the prescribed announcements were made on December 21, 24, and 25 of the year 1843. Then, in the Curia, in the presence of a Notary, the betrothal with consent was performed, the examination of the betrothed was completed, and after hearing three witnesses regarding impediments, the Vicar General granted the license for the marriage on the same day, December 25 of that month, which is the feast of the Nativity of Our Lord Jesus Christ; and on the same day, the marriage was celebrated in Caia's own home, not before either of the Parish Priests or the Vice-Parish Priest, but before Joseph, a Canon of the cathedral church, formerly a Parish Priest, and the Vicar General of another diocese, a friend of Caia's family; and two witnesses were present: Joseph's mother, and a certain Peter. Ada, vol. III, section XXXII, 16.

[*Latin ed. p. 402*]

402. MARRIAGES. For this reason, after the marriage began, the spouses lived together for a period of only three months, according to the assertion of Livius, while with others, it lasted until the year 1848, although they did not have children. However, it happened that one of the two parish priests died in the year 1844, and also the aforementioned assistant priest in the year 1847. But in the year 1848, on May 10th, Livius requested a certain lower ecclesiastical judge to declare the marriage null. The woman opposed this, since the request was without any foundation; and in truth, although Livius promised to present reasons for the nullity of the marriage, he never presented them. Indeed, Livius moved to distant regions, seeking Caliphorniam, inflamed by the desire to gather gold. But then, having returned to his homeland, after the death of the canon before whom the marriage had been celebrated, on February 14, 1853, he instituted a trial before the Vicar General against the validity of the marriage, under the pretext of clandestine marriage, that is, due to the lack of the necessary delegation. The entire difficulty in this trial consisted in the fact that, in the parochial books, neither the document of the celebrated marriage could be found, nor the delegation: and how this could have happened, the Archbishop explained as follows: "If the parish priest, to whom the license for the celebration is granted, delegates another priest, the delegation is granted by a written document in the very license book; and this is extended not only for the celebration of the marriage, but also for the solemn blessing of the marriage. Spouses, especially the wealthy, after contracting marriage, postpone the blessing, retaining either themselves, or the delegated priest, the document of the delegation, until the marriage is blessed, sometimes postponing it indefinitely; hence, since the delegation and the attestation of the marriage are not returned to the parish priest, they are not noted in the marriage books of the church. This abuse is sometimes caused by the negligence of

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the priest who is acting as the delegate, sometimes by the inexperience or carelessness of the contracting parties, and sometimes by bad faith." The same was repeated by the Defender of the Marriage, appointed by the Curia, who had formerly been the parish priest of the same city, and who added: "An investigation revealed that in that parish, the assistant priest had been given the authority to grant such licenses, hence the parish priests were unaware of those who contracted marriage."

[*Latin ed. p. 403*]

MARRIAGES. 403 Having commenced judicial proceedings, Caia voluntarily entrusted the entire matter to the Defender of the Marriage appointed by the Curia, refusing to appear in court, declaring that, being a young girl inexperienced in such matters, she had not known whether the marriage rite should be celebrated before the Parish Priest, or another Priest without permission. However, she stated this not according to the form of the Constitution, but according to the mercy of God, according to which she was to be questioned on this matter before the minister of the Sacrament. Livius presented the testimony of another Parish Priest, who declared: "I have not granted any of my subordinates, and certainly not of the clergy, the right to assist at the celebration of a marriage." The witnesses who should have been heard first, namely, the other Parish Priest, the Vice-Parish Priest, and Canon Joseph, having died, the two who were called by the Defender of the Marriage from the Curia were those who had witnessed the marriage celebration, namely, Joseph and Peter; moreover, it was reported that said Joseph had received something from the Vice-Parish Priest, which she had given to Canon Joseph, and by virtue of which this Canon had been present at the wedding. However, Titius refused this judicial summons to Joseph; and not without reason: for after a decree was issued by the General Vicar, ordering Joseph to appear in court and, under oath, to declare how the marriage had proceeded, and whether or not the permission of the Parish Priest had been obtained, Livius appealed to the lay judge, requesting the revocation of the decree issued by the Curia, and his request was granted. Furthermore, Livius prevented the two witnesses from being subjected to even simple questioning. Since the ecclesiastical judge was unable to complete the proceedings, he proceeded to pronounce his judgment with the reasons that he deemed appropriate, in which he declared the marriage to be valid. Livius appealed from this judgment, and the case was referred to the Bishop of the neighboring diocese, who, with the Defender of the Marriage appointed, fully confirmed the judgment of the first instance. Although a judgment had been rendered that was consistent in both instances, establishing the validity of the marriage, Livius nevertheless appealed to the Holy See, requesting the revocation of the judgment and a declaration of nullity. His Holiness, despite the res judicata, granted the request that the case be re-examined, either through an

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extraordinary appeal or through a restoration to the original state, in Rome. Therefore, observing the customary procedures, the case was presented under the doubt which we place at the end.

[*Latin ed. p. 404*]

404. OF MARRIAGES. A Synopsis. DEFENSE OF LIVIUS. – Livius' advocate, appearing in the city to argue the merits of the case, stated as follows: There is no document from which it can be inferred that a delegation was made, either by the Archbishop, or by either of the parish priests, or by the vicar. Therefore, it can only be validly concluded, based on presumption, that the marriage was duly begun. But when the matter concerns the form, and under penalty of nullity, it is inadmissible to presume the form itself, since that very form is prescribed in order to exclude presumptions. Therefore, in any case, when there is no document of delegation, the contrary must be presumed, namely, that there was no delegation; all the more so because, upon examination of the series of events, nothing was found that was not unusual and full of suspicion: for example, the marriage was celebrated within only five days; the Curia was opened on the Most Holy Nativity of Our Lord; the marriage was contracted at a prohibited time in the girl's house, without either parish priest present; a priest, a friend of the family, assumed the office of the parish priest; permission to celebrate the marriage was not given to the parish priest; the marriage was not recorded in the parish books, which not only demonstrates negligence, but also grave fault, as commanded by the Council of Trent, Session II, Chapter 1, concerning the reform of marriages. The parish priest must have a book in which the names of the spouses and witnesses, and the date and place of the marriage, are described, which he must diligently keep with him. Furthermore, the advocate added, this demonstrates an abuse that is said to prevail in that parish, arising either from the negligence of the priest who performs the delegation, or from the inexperience or ignorance of the contracting parties, or perhaps from bad faith in not granting the parish priest permission for a long period of time: in this case, he asserted that both were so improbable that the opposite must be judged. For example, it is impossible that a Canon, highly skilled in ecclesiastical matters, could not have noted the marriage, if he had been prudent and faithful in all things, as is presumed; if, however, he failed in his duty in this matter, then the entire presumption based on his expertise is undermined. Nor can the omission of the aforementioned inscription be presumed to be due to the inexperience, ignorance, or bad faith of the contracting parties: for...

[*Latin ed. p. 405*]

MATRIMONII. 405 The document attesting the celebration of the marriage of Caia, which had taken place in the family, should be immediately placed in a safe place; nor could it be omitted, whether when the first

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separation of the spouses occurred, or when, in the year 1848, while Canonico was still alive, the woman renewed her petition for a declaration of nullity; for indeed, the very honor and the sacredness of the marital state compelled Caia and Canonico to overcome indolence or bad faith, and to present testimony against the nullity. Therefore, the Advocate concluded, if anything were to be presumed, it could only be presumed that the license or the act of delegation never existed. Furthermore, he continued, the objection could not be presumed that Canonico was not sufficiently instructed in the law, who had formerly held the office of Vicar General, to have attended the marriage without a delegation: for if that were to be judged, all cases similarly infected with this clandestine vice could be easily dismissed; since it would depend on whether the one who provided assistance in place of the Parish Priest was or was not learned in the law. Moreover, the Advocate argued, Josephine was not subjected to examination, even though a report had been received stating that she had received a document from the Vice-Parish Priest, signed and containing a delegation. If that were the case, the Advocate inquired, the presumed delegation would have become much clearer; for the Council of Trent granted the faculty of delegating only to Parish Priests and Ordinaries. With these reasons, refuting the presumptions contrary to him, the Advocate placed the strength of his argument in the burden of proof, rejecting it in favor of the party adverse to him. For he maintained that, according to the essential form prescribed by the Council of Trent, whenever marriage is celebrated before another priest besides the Parish Priest, it must be understood that the burden of proof of the delegation rests upon the one who contends that the marriage was duly celebrated, and not upon the other, who argues against its validity, and who denies that a delegation intervened. To demonstrate this, he distinguished the present case from others, in which the effect of the contract is in question, such as succession, the legitimacy of children, and other matters in which the possession of the marital status shifts the burden of proof to the one who denies: but in the present question, the parties are arguing about the very beginning of the marriage, and not about its effects; therefore, the one who defends the bond must clearly prove the observance of the prescribed form, concerning which he spoke as follows.

[*Latin ed. p. 406*]

406. MARRIAGES. The Defender of the Faith, in the disputation concerning ecclesiastical divorces, volume 1, part 2, section 5, number 1, states: "When a dispute arises concerning the validity of a marriage, it usually involves two types of investigation: one when the dispute concerns the legitimacy of the marriage for the purpose of inheritance or support; the other when the dispute concerns the marriage itself. A common distinction is made, that in the second case, conjectures and presumptions are not considered, whereas in the first, according to the well-known opinion of

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Geminiani, volume 27, which has been widely approved by Doctors and the Sacred Roman Rota, as can be seen in Wames, volume 532, number 3, Cardinal de Luca, *De Matrimonio*, discourse 16, number 7, etc.; also in volume 1, page 2, number 209, and in Monacelli, *In Formam*, volume 2, title 16, annotation to form 2, number 28, where he states: 'The rule that is often cited, that in case of doubt, one should presume the marriage to be valid, does not apply when the marriage was contracted clandestinely, contrary to the ordinances of the Church and the form prescribed by the Council; in such a case, since there is a notable suspicion, the judge must always judge in favor of the doubt.' Also, the Sacred Congregation, in *Florentina Matrimonii*, on July 29, 1854. Furthermore, concerning statutes that are said to be essential for the validity of an act, so that without them the act cannot be valid, nor can it subsist, nor can it be completed by an equivalent, (Schmalzgrueber, *In Ius Eccl.*, volume 4, part 1, title 3, on clandestine marriages, number 103, and the Sacred Rota, before Dunozetto, decision 308, number 1), the Advocate pointed out that one cannot presume a delegation that must be expressly given, and that a tacit delegation is not sufficient, according to what Barbosa states in *De Officio Episcopi*, 32, number 126: 'A license, which is required from a priest to celebrate marriages, must be obtained from the priest's own parish priest or his permanent or temporary vicar, or from the bishop, or his general vicar, or from other prelates who have quasi-episcopal jurisdiction; it must be expressed, for a tacit one is not sufficient, such as that which arises from tolerance or from ratification.' Thus, Menoch, etc., state, citing a collection of authorities. Nor is it otherwise, as Cosci states in *De Separ. Tori*, chapter 14, number 16: 'If the parish priest challenges this delegation, it is the duty of the priest who claims to be delegated, or of the contracting parties, to prove that the delegation intervened; for the burden of proving that the marriage was validly contracted rests on the one who asserts it.' With these and many other authorities presented, the Advocate concluded that, since there was no evidence of the validity of the marriage, it should be judged null.

[*Latin ed. p. 407*]

MATRIMONIES. 407 DEFENSE OF MARRIAGE. The Defender of the marriage, striving to demonstrate the merits of the case, observed that the present cause was being examined after twenty-four years from the beginning of the marriage, after all those who had dealt with the matter had died; and that no proofs were available from the parochial records due to a certain abuse prevalent in that parish, as the Archbishop had described. Therefore, resorting to extraordinary arguments, he noted that everything had been properly completed, and that permission had been granted by the Curia to enter into the marriage, and that this permission had been given to the Vice-Parish Priest; and since all the lesser formalities had been completed, it was absurd to think that a necessary and essential delega-

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tion to an outsider had been neglected. The Advocate argued that such an omission could only have occurred either through malice or through ignorance; not through malice, since the spouses had declared before the Curia that they wished to contract marriage according to the rites of the Church, and had fulfilled all the forms prescribed by the Council of Trent and other solemnities; nor through ignorance, since Canon Joseph was very experienced in this matter, having held several ecclesiastical offices *gesta*. And do not say that the external solemnity prescribed for the form of the act was not presumed; for if the marriage is to be celebrated and concluded before an external priest with mutual consent, the priest must have authority, and this authority is commonly and most often present; but it is one thing to say that the prescribed solemnities or form were not fulfilled, and another to say that the demonstration of the form having been observed was made through an equivalent; for it is not to be doubted that the form must be observed precisely, and that the delegation of the Parish Priest or Bishop cannot be supplied by this or any other act, that is, by an equivalent; but here we are dealing with the supplementation of proofs, which are the only ones that remain after so long a period of time. From this, the Advocate gathered indications which sufficiently indicated that the delegation had not been lacking, such as the customary authority granted to the Vice-Parish Priest to assist at marriages, so that the Parish Priest would not even know who had contracted marriage; the special reason for the present case, which was that the entire matter had been entrusted to the Vice-Parish Priest by the Curia; and the custom of the contracting parties not giving the Parish Priest permission to celebrate the marriage until after they had received the blessing, which blessing was often delayed.

[*Latin ed. p. 408*]

408. MARRIAGES. *ad infinitum*: Furthermore, knowledge was obtained regarding a permission slip granted by the Vice-Parish Priest Joseph, which the woman herself presented to the Canon, in whose presence the marriage was said to have taken place; indeed, the very license for celebrating the marriage, issued directly by the Vice-Parish Priest to the "outside" priest, demonstrated the delegation, since it is not necessary that the delegation be given in writing: Sánchez de Matr. t. i, p. 1, disp. 35, n. 10. With these and other similar circumstances, the following question was proposed: "Does it follow that the marriage is null in this case?" RESOLUTION. – The Holy Congregation, after discussing the matter, on February 1, 1868, decided: negatively. FROM WHICH IT CAN BE GATHERED: I. Generally, the formalities which are prescribed by law must not be presumed to have been observed; but those who maintain the validity of the act must demonstrate that these formalities were indeed observed. II. Therefore, in a marriage contracted before an outside priest, it cannot be presumed that the priest was delegated to

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perform the marriage, but rather it must be demonstrated by those who maintain the validity of the marriage. III. However, such a demonstration must be made in a way that the fact can be demonstrated. IV. And this can be demonstrated in two ways: either through testimonies or documents that attest to the fact; or through other facts and indications that could not be explained, unless the very fact that we are trying to demonstrate is assumed to be true. V. In the present case, there were no arguments of the first kind; however, there were not lacking a complex of facts and indications that could at least be very difficult to explain, if the delegation had not been granted. VI. However, when valid presumptions exist in favor of the delegation, a judgment of nullity of the marriage should not be pronounced, even though the validity is not entirely clear (1). (1) The Holy Congregation did not say that the marriage was valid, but judged that it did not follow that the marriage was null, which is much less; with this response, it sufficiently demonstrated that in the present case, there were facts and indications in favor of the existence of the delegation, which were sufficient to reject the burden of proof of nullity on the one who impugns the validity; although the matter concerns formalities that should have been demonstrated by the one who maintains the validity.

[*Latin ed. p. 409*]

409. INSTITUTION OR DISPENSATION. September 14, 1867. Session 25, chapter 9, concerning temporal affairs. Summary of the case. There exists a chaplaincy under lay patronage, belonging to a family, founded in the church of the town of N. Upon the death of the chaplain, three patrons presented a new candidate, Titus of Clericum, fifty years of age, who had long since abandoned the clerical state and held an office as procurator in the city; but one of the three patrons, having subsequently changed his mind, presented humble petitions to the Bishop, requesting that his son, Vincent, who was born in February 1853, might receive the sacred tonsure, so that he might obtain the chaplaincy. Several other patrons insisted that the chaplaincy, without a chaplain at the present time, should be administered by themselves, in order to repair the altar and the tomb of the chapel, and also to recover alienated property. Successive petitions were presented to the Apostolic See; Titus, in fact, requested a dispensation from entering upon the clerical state and from receiving the tonsure; Vincent requested a dispensation concerning the lack of age, since he was required to be of age; the others insisted on the suspension of the chaplaincy for the aforementioned purposes. The Bishop was consulted for information and his opinion; who, among other things, responded that the chaplaincy under lay patronage is a true and ecclesiastical benefice, which is perpetually granted by canonical institution through bulls issued (1); that it is the duty of the chaplain to offer twenty-two Masses, and to maintain the chapel; that, concerning the revenue of the same chaplaincy, lacking an inventory, he

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could report nothing; nor had the patrons, although requested, presented suitable documents. However, the same Bishop wished that the petitions of Vincent might be heard, provided that he should enter the diocesan seminary for the purpose of study, and that a certain administrator should be appointed to him, who, after fulfilling the duties of the chaplaincy, would expend the annual revenue for the expenses of his education, and would also recover the property of the chaplaincy, if it had indeed been alienated, etc. (1) Recall what we noted in Fol. II, page 327.

[*Latin ed. p. 410*]

INSTITUTION OR DISPENSATION. A matter of canonical law. It was observed that here the question concerned the right of patronage pertaining to a family, in which all descendants of the original patron have the right to present a candidate: and that there was no established passive right, so that anyone could be nominated to the chaplaincy by the patrons, provided that he was otherwise qualified according to common law. Having made these observations, with regard to the suspension of the chaplaincy, it was noted that, although a just cause for suspending the collation might be presented, it would nevertheless obstruct nominations made by other patrons; all the more so because nothing would prevent the new chaplain from being appointed by the Bishop to restore the altar, the tomb, and the goods, if they had been alienated. Thus, the question was debated between two candidates, Titus and Vincent. Titus was supported by a plurality of votes; moreover, he was qualified by having already received the sacred tonsure for a long time: and there was no impediment from the dismissal of his clerical habit; for although Fagnanus states in chapter Odoardus, de sohlt, n. 24, that a cleric who lives publicly as a layman after having been dismissed from his clerical habit is to be considered in all respects as a layman, and is deprived of all clerical privileges; nevertheless, it is entirely permissible for a cleric to resume his habit at any time, even without the knowledge or consent of the Bishop, according to what is taught by Cardinal De Luca in *De Pensionibus*, section 81, n. 14: which seemed sufficient to establish that a cleric, even if not wearing his habit and tonsure, had the right to aspire to a benefice; therefore, Titus appeared to lack nothing except the resumption of his clerical habit, for which, however, a dispensation was required; whereas, Vincent was noted to have the nomination of the patron, who, although he had nominated Titus first, could nevertheless, as a layman, change his first nomination within a reasonable time, according to what the Doctors teach in chapter *Quod* 3 and chapter *Cum* 24, concerning the right of patronage. Moreover, if Vincent had not reached the canonical age required to receive benefices at the time of his nomination, he might perhaps have reached it at the time of the vacancy, and it would easily be possible to grant a dispensation in these circumstances, provided that the petitioner is from the family of patrons. However, it was observed

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that, although Vincent had not received the sacred tonsure at the time of his nomination, he had, at a suitable time, requested it, and therefore it was sufficient that he had been tonsured before the institution.

[*Latin ed. p. 411*]

INSTITUTION OR DISPENSATION. 411 After these things, a certain cause concerning Mutina was brought before the Sacred Congregation of the Council on May 20, 1854. In this case, among others, a certain cleric was nominated by the Patrons for a chaplaincy, who had for a long time abandoned the clerical habit, and who had requested the Congregation to allow him to resume that habit; although the others presented opposed this, the chaplaincy was nevertheless granted to that cleric: but it was noted that the present case differed greatly from that of Mutina; and indeed, the chaplaincy in Mutina was purely lay, although, according to the will of the Founder, a clerical condition was required for its attainment; in the present controversy, the chaplaincy is ecclesiastical; in the former, proximity in degree was to be considered; in this, the majority of votes; in both, however, the difficulty arose from the abandonment of the clerical habit. DOUBTS. 1. "Whether and how assent should be given to the requests of the Orators concerning the suspension of the nomination of a new Rector of a chaplaincy in this case." And, "Whether and whose favor should be consulted with the Most Holy Father for a dispensation to obtain the chaplaincy in this case." RESOLUTION.—The Sacred Congregation of the Council, having knowledge of the case, decided on September 14, 1867 to respond as follows: 1. Negatively. 2. Affirmatively, with the favor of Vincent; inasmuch as he requires a dispensation, and should speak with the Most Holy Father. FROM WHICH WE GATHER: 1. It is the duty of the one who possesses a benefice to recover, with the help of the Bishop or with his assistance, the goods of that benefice, if they have not been properly alienated, and to restore and repair them, even if the Bishop compels them. 2. Therefore, unless necessity compels, there is no place for the suspension of a canonical institution, so that revenues may be applied to the restoration of the benefice. 3. Nor do the Patrons, to whom only the right of oversight over the administration of the benefice's affairs is granted, have the right to administer the goods for the increase and perfection of the benefice (1). (1) Recall what we noted in Vol. I, page 231, and in Vol. II, page 352.

[*Latin ed. p. 412*]

412. INSTITUTION OR DISPENSATION. IV. Furthermore, it is understood that even a simple cleric, who has, of his own accord, relinquished the clerical habit for a long time, can nevertheless be nominated for a benefice and obtain it, provided that he is prepared to resume the clerical habit. V. However, if Titus is present and refuses to resume the clerical habit, Vincent, even if nominated by a patron, may be chosen, even if he has not

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yet reached the canonical age at the time of presentation.

MASS OF THE CONVENT. On September 14, 1867. Session 24, chapter 12 concerning reforms. After the grievous calamities of the times in the year 1821, the Chapter and the university of chaplains serving in the metropolitan church were restored. In the year 1822, a dispute arose concerning the manner of dividing the burden of the Conventual Mass among the members of both colleges, namely, the Canons and the Chaplains. It was agreed that the same Mass should be celebrated by all in turn, and that the alms for that Mass, taking into account the amount of revenue from their own Masses, should be paid by both colleges, maintaining this proportion: 1. That the Chapter should provide two-thirds of the alms for the manual labor of those who would sing the Conventual Mass; 2. That the university of Chaplains should provide the remaining third. They wished this agreement to be perpetual. Furthermore, the amount of the alms for the Masses at the time the agreement was initiated was one Roman denarius, or ten obols, according to the old tax established in the diocesan synod. However, when the present Archbishop increased the alms for the Masses to the value of a small Italian coin, a dispute began between the Canons and the Chaplains concerning the increase in the alms. The question was proposed before the Sacred Congregation of the Council, and, after receiving information from the Bishop concerning the revenues of each Mass, the following doubt was proposed to be resolved.

Doubt. "Whether and in what manner there is a place for an increase in the alms for the Conventual Mass to be paid by the Canons to the Chaplains in this case."

[*Latin ed. p. 413*]

THE CONVENTUAL MASS. 413. RESOLUTION. — The Congregation of the Council, on the 14th of September, 1867, judged it fitting to respond: Affirmative, concerning two out of three parts of the manual alms which are actually practiced in the diocese, and moreover. FROM WHICH ARE GATHERED: I. Agreements or transactions concerning the office of celebrating the Conventual Mass, once properly initiated between the parties, are to be held as unchangeable according to the law (1). II. Whenever a term, by its nature variable, is expressed and proportionally defined in a transaction, the other terms must also be changed proportionally, so that the same proportion is maintained. THE ERECTION OF A BAPTISMAL FONT. On the 1st of February, 1868. Session 21, chapter 4, concerning reforms. Summary of the case. In a mountainous region of the diocese of N., there exist three churches, of which one enjoys the right of matriculation over the other two, A and B, which are therefore called filial churches. The church B lacked a baptismal font and was located three thousand paces, and more, from the mother church, and two thousand paces from the church A. However, during

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the winter, due to snow, ice, and the force of the winds, access to the mother church was sometimes rendered almost impossible. Therefore, the parishioners of the church B were accustomed to bringing the infants to be baptized to another, nearer, filial church, A, which was equipped with a baptismal font; but neither could this be accomplished without great inconvenience, nor without the danger to the lives of the infants. A few years ago, the pastor of the church B, Peter Bianchi, after having built, at his own expense, a new and elegant parish church from the foundations, furnished it with sacred furnishings, with a tower and a bronze bell, and a special chapel for burials (!). It is possible to find the reason given in Volume 11, page 194.

[*Latin ed. p. 414*]

4fl4 CONCERNING THE ERECTION OF A BAPTISMAL FONT. In order that nothing might be lacking for the spiritual benefit of the faithful, and in order to fulfill the desires of the people, he requested the Capitular Vicar to grant him the faculty of establishing a baptismal font there; which, with the consent of the parish priest of the mother church, was readily granted, with the proviso: "saving the rights of the mother church." Therefore, the baptismal font was immediately begun to be erected; nevertheless, the parish priest of the other filial church, A., opposed the erection, alleging a lack of due process, and a detriment to the rights, whether spiritual or temporal, of his parish; which is the origin of the present dispute. The principal argument that this parish priest put forward in defense of his rights was a custom, which he claimed was very ancient and long-standing, according to which all newly born infants in the parish of N. were brought to the baptismal font of his parish, A., for baptism; which, he claimed, was done without serious inconvenience and without danger to the children. The Capitular Vicar, in his report, pointed out that the parish priest of the aforementioned filial church, A., could not complain of a violation of his rights, since the right to baptize had been granted to him by the mother church; but this right had been granted to him only with regard to his own parishioners, and not with regard to the inhabitants of other parishes. Furthermore, if infants from another parish were brought to his parish for baptism, this would have been a greater inconvenience, since they were rightfully to be brought to the mother church, from which the church A. itself depends, and from which it is accustomed to receive the holy water on the Sabbath.

CONCERNING MATTERS NOTED IN FAVOR OF THE PARISH PRIEST A. In addition to other things, the following were noted in favor of this parish priest by virtue of his office: As observed by Cardinal Peter in Const. 2 of Gregory XI, t. in. 12, the solemn administration of Baptism was, in the early centuries, most often performed by Bishops, and infants were brought to the city in which the Bishop resided, for the purpose of receiving Bap-

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tism (Catalanus in Comm. ad Ponti f. Rom. tom. % t. i de Benedictione et impositione primi lapidis pro Ecclesia aedificanda p. 1 n. 27). Furthermore, for the greater benefit of the faithful, the division of parishes was made to the mother church, to...

[*Latin ed. p. 415*]

CONCERNING THE ERECTION OF A BAPTISMAL FONT. 415 It is reported that there was a church which, alone among others, possessed a baptismal font; Thomassin, *De Veteris et Novis Ecclesiasticis Disciplinis*, p. U. 2, chap. 21, no. 8. From this arose the distinction between baptismal churches and parish churches, a distinction which the Council of Trent preserved. Therefore, although the faculty of baptizing should be included among the rights of a parish, as Lotter states in *De Re Beneficiaria*, I, 1, question 28, no. 54, it is not a necessary characteristic of a parish church; for a parish church can exist without having a baptismal font, as Barbosa states in *De Jure Ecclesiastico*, I, 2, chap. 1, no. 23. Cardinal Petra, in the same place, no. 17. However, nothing prevents a parish from legitimately acquiring, by privilege or prescription, the right to baptize the infants of a parish other than its own, as Fagnanus teaches in *Cap. Cum Contingat de Decimis*, Barbosa, *De Parodi*, chap. 18, no. 7, and Pignatelli, vol. 4, treatise 3, no. 13. The Holy Congregation seems to follow this common opinion, as evidenced by a decree issued in Romana concerning the law of baptism on May 15, 1700, in which it was judged that the Basilica Vaticana could administer the sacred baptism to the infants of other churches in the city. Therefore, it should be observed that, from ancient times, the infants of the parish of B. were often brought to the church of A. to be solemnly baptized.

FROM WHAT HAS BEEN POINTED OUT, THE ADVANTAGES FOR THE PARISH PRIEST OF B. Conversely, the following advantages were associated with the favor of this parish priest: although the sacred canons did not prescribe that a font of salvation for baptism should be erected in all parish churches, it is not foreign to the nature of the sacred canons, indeed, it is in accordance with them, that each parish priest should personally administer the sacred baptism to his parishioners within the church, so that each parish priest may certainly know which sheep have been incorporated into the flock of Christ, as noted by the Sacred Rota in Romana concerning the law of baptism on January 12, 1733, before Samminiato, as cited by Ferraris, in the word "Baptismus"; also, so that the parish priests themselves may more easily know who have been born of legitimate marriages, and who, as such, should be recorded in the parish registers; and also, so that greater vigilance may be exercised by them, lest the parents delay bringing the infants to the church, where they will receive spiritual generation: these reasons are made even more valid, as the bonds of marriage become

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weaker, by reason of the condition.

[*Latin ed. p. 416*]

416. ESTABLISHMENT OF A BAPTISMAL FONT. In times past, among Parishes and parishioners, among Pastors and the faithful; therefore, in the very same diocese in which the present question was debated, as the Vicar Capitular reported, in several Parishes lacking a baptismal font, it had been prudently established by the Bishops. This practice of the Bishops is most in accordance with what the Doctors teach, as Paulus Fuschius states in his work *De visitatione et regimine Eccles.* I, chapter 7, paragraph 16; as Joseph Crispino states in his treatise *Della visita pastorale*, page 2, section 3, paragraph 1; as the Catalán Commentary on the Roman Rite, under Benedict XIV, on Baptism, section 30, paragraph 8; as Barbosa de Parocho states, page 2, chapter 18, paragraph 7. This practice has moreover been confirmed by the Sacred Congregation of the Council, specifically in the document *Fulginaten.* of June 22, 1720, in which, indeed, the matter under consideration was very similar to our own, and the doubt proposed was: "Whether the newly erected baptismal font in the church of Saint Matthew in Castro Senioris is to be maintained?" The response was: "Affirmatively," leaving the parishioners of Saint Mary in Castro Senioris free, as usual, to bring their children to be baptized in other Parishes, and so forth. Also, in the document *Fabrianen. Fontis baptism.*, in which a more difficult and challenging case was considered, the doubt proposed was: "Whether the erection of a baptismal font in the church of Saint Blaise (a filial church of the cathedral) is to be maintained?" The first response was: "Negatively;" but after the matter was reconsidered on November 21, 1732, a rescript was issued: "To recede from the previous decision." Furthermore, when another case was proposed, with the doubt: "Whether the Pastor of the cathedral church of Saint Vigenand is permitted to baptize in it the children of other Parishes that have a baptismal font," or rather, whether this pertains exclusively to each Pastor, who has a font in his church, to administer Baptism to his own parishioners in the case: "The response was: "After recanting the previous decision, negatively to the first part, affirmatively to the second." It was noted in the case that we are considering the right of Pastor A, granted to him by the Mother Church to which he belongs, to baptize the infants of his Parish; and that the custom by which the infants of Parish B are brought for Baptism to the church of Pastor A, cannot create a prescription, since that custom arises from acts done merely by permission, for to avoid a greater inconvenience, the newly born are...

[*Latin ed. p. 417*]

CONCERNING THE ERECTION OF A BAPTISMAL FONT. 417: They were referred to [the Holy See] for the purpose of being baptized; hence, the parish priest A. could not complain of losing those small benefits. Af-

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ter these and other matters were discussed, the question to be resolved was this: "Whether the erection of a baptismal font in a church (B.) is to be approved in this case." RESOLUTION. — The Holy Congregation of the Council judged that it should respond: Affirmative. FROM WHICH IT CAN BE GATHERED: I. Although the administration of the sacrament of Baptism was customarily performed by Bishops in the baptisteries of churches; nevertheless, with the increase of the Christian flock, and subsequently divided into Presbyters with titles, this duty was entrusted to them. II. Considering the illustrious office, such as that of bringing people into the flock of Christ the Lord, this duty was not entrusted to all presbyters who held titles; but rather, to those most of whom were in charge of churches in cities. III. Such churches, or those with greater titles, were subsequently called "Mother Churches," which, as mothers, beget children for God through baptism. IV. Traces of this ancient discipline still survive in many places, especially in Italia. V. Nevertheless, considering the evolving discipline of the Church, as well as the nature of the sacred canons, it is not foreign to the customs that parochial churches, which lack a baptismal font, should be provided with such a font, under equal circumstances, and with the necessary precautions. Jeta, vol. III, sect. XXXII, 27.

[*Latin ed. p. 418*]

418. CASE OF CHURCH FUNDS. March 30, 1867. Summary of Facts. In a certain town within the diocese of N., there exists a collegiate church with the care of souls; it encompasses more than six thousand parishioners within a vast territory extending to sixteen thousand paces, through places often obstructed by heavy snow in winter, and interspersed with rugged mountains. In this church, there are four assistant priests, who, together with the archpriest, exercise the ministry of the care of souls. In the same church, there are two pious foundations: namely, in the year 1746, a pious priest, Paul Variente, from his own property, established the school of St. Roch in that town, with the obligation (from the revenues of a certain house and from a certain annual canon of 62 Venetian monetary units) of establishing a "Mansionarium" or ecclesiastical endowment, to benefit a cleric chosen from that school who was poor, and who was to celebrate as many Masses per week as could be provided from the revenues of the house, with an alms of 1 Venetian monetary unit assigned for each Mass; the aforementioned Mansionarium retaining the right to collect the canon. Furthermore, the same pious testator wished that, during the vacancy of the Mansionarium, all revenues should be allocated to the celebration of Masses. Over time, the aforementioned Mansionarium underwent several changes, until, due to the laws of the Republic of Venice, the house was sold and the canon was redeemed, and in the year 1762, the total sum of 2274 Venetian monetary units was deposited with the Monte di Pietà, where it is still kept. It also happened that the Monte di Pietà succeeded in

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having the right to choose the Mansionarium. Later, through the donation of a certain Mansionarium, the aforementioned sum was increased by 110 Venetian monetary units. In the present time, such revenues are distributed as follows: while the aforementioned disposition of the testator remains in force during the vacancy, the Mansionarium receives a fixed income of 62 Venetian monetary units, and the remainder is allocated to Masses with an alms of 50, according to the current diocesan regulations.

[*Latin ed. p. 419*]

UNION OF ECCLESIASTICAL BENEFICES. 419 The venerable Sylvester Camerini left behind another pious endowment in the year 1861, establishing an annual income of Libel. Austr. 165, which could be used to supplement some ecclesiastical patrimony assigned by the Archpriest for the time being to a priest whom he himself would not choose, with the obligation of teaching the catechism. The income of both pious foundations was soon received by a certain Cleric N., who, having been promoted to the priesthood, obtained another benefice, leaving these behind. Therefore, since these foundations became vacant, the Archpriest requested a perpetual union of them under the title of the "Cappellania Variente-Camerini," reserving the right of election, to be exercised alternately between the Archpriest and the Presidents of the Monte di Pietà, with any obligation of celebrating Masses abolished, except during periods of vacancy. He explained the reasons for this request, which are as follows: namely, the need to provide for a priest who would teach Christian doctrine to children, gathering them each day on feast days in a certain temple within the parish boundaries, so that he might also imbue them with piety and religion, and to encourage some of them to enter the priesthood. Furthermore, the Archpriest stated that, due to the size of the parish, it was necessary to teach Christian doctrine in six distinct places; and that there were only five priests available; hence, either one place would have to be abandoned, which would be a serious detriment to religion, especially in these times, or another priest would have to be provided who would dedicate himself to the care of souls. The Bishop approved the Archpriest's request, more precisely defining the duties of the new chaplain; indeed, everyone concerned heard of it, and those who were interested agreed to the union of the foundations.

OBSERVATIONS FROM THE OFFICE. — As is customary, certain observations were noted from the office, namely that unions of benefices, or of pious foundations, are considered odious in law, because the status of the same is altered, the dispositions of the founders are overturned, and sacred patrimonies are diminished, which often leads to detriment to the divine cult; therefore, unions should only be decreed out of necessity or evident utility, Cap. 23 on Benefices. The Council of Trent, Session 21, canon 5, and Session 24, canon 15, speak of reforms. However, in the present case,

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two foundations were left to establish an ecclesiastical patrimony, but they were no longer sufficient for the ecclesiastical patrimony; therefore, the requested union was...

[*Latin ed. p. 420*]

420 CONCERNING THE CHAPLAINS' UNION. It should not proceed contrary to the will of the founders, and, on the contrary, should yield to the increase of divine worship, due to the obligations which the priest should have undertaken according to the bishop's will. Although these things seemed to favor the union, nevertheless, the proposal of the archpriest to abolish the obligation of Masses did not seem appropriate: for this was too contrary to the will of the testator. Moreover, if the synodal tax were increased to 50, that is, more than double the original alms, the Masses left by the founders could, with Apostolic authority, be reduced; but it is altogether contrary to canonical discipline to completely abolish the obligation of Masses: for, although it is commonly granted to bishops by the Holy Congregation the faculty of reducing the legacies of Masses when the established alms are too small due to circumstances, or due to a lack of revenues, or due to an increase in the synodal tax; nevertheless, certain limits, either in time or in number, are usually assigned, as prescribed in the instructions which are usually given on this matter. Considering these and other matters, after prayers were offered to the Holy Congregation, a rescript was issued by the Council on March 30, 1867: "Having, with prior absolution regarding the past, granted, for the benefit of the perpetual union of both pious foundations, and in favor of the assignment of a chaplain according to the bishop's will, and the reduction for ten years of the Masses to half, reserving the alternative right of nominating a chaplain to the archpriest and the administrator of the Monte di Pietà, to be approved by the Ordinary, so be it."

FROM WHICH IT MAY BE GATHERED:

I. Although a real and perpetual union of benefices, as well as of pious legacies, is generally prohibited by the sacred canons, nevertheless, if there is a canonical reason, the Holy See may approve of such a union.

II. Canonical reasons are those that involve a necessity or evident benefit to the Church.

III. However, when deciding on a union, the will of the founders should be preserved as much as possible.

IV. Finally, it may be gathered that, although the tax for alms for Masses may be increased by the Ordinaries according to the needs and customs of the place, nevertheless, the legacy of Masses cannot be reduced according

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to the tax without Apostolic permission.

[*Latin ed. p. 421*]

421 IX S, CONGREGATIONE EPISCOPORUM ET REGULARIUM. CONCERNING THE DEMOLITION OF A CHURCH. On September 7th, 1866; January 1st, 1867; and February 7th, 1868. Summary of the matter. Upon the summit of a hill, where the city N. is situated, there stood, in ancient times, a noble temple, erected by Urban IV, in memory of illustrious events. Today, however, only ruins remain of it. This temple, in its present state, consists of three naves, with a single altar in the center, above which is an image of the Crucifix, which the faithful people have venerated with great piety from ancient times. Formerly, this temple was a parish church, but due to the very small number of parishioners in that location, the care of souls was transferred to the cathedral church. In the year 1530, the Ordinary united this parish benefice to the cathedral church, and it is recorded that the income of this benefice at that time did not exceed twelve ducats from the treasury, with the condition that the Canons of the same benefice should bear the usual and customary expenses. This union was made for the purpose of ensuring the preservation of the temple. When a pious lay sodality required a place to carry out religious exercises, the Chapter granted this temple to the sodality, under certain conditions, among which was that the sodality should provide for the safety and preservation of the temple. Regarding the goods belonging to the temple or benefice, it was stipulated: "The Canons shall preserve for the Chapter all and each possessions, vineyards, fields, meadows, revenues, houses, and other places pertaining to the same temple, except for those mentioned above, that is, the places adjacent to the temple." It does not appear that the pious sodality fulfilled these obligations, for in the year 1629, the temple was in danger of ruin, so that the pious sodality was forced, with the permission of the Ordinary, to abandon it, and to move to a certain oratory annexed to the cathedral church.

[*Latin ed. p. 422*]

422. CONCERNING THE DEMOLITION OF THE CHURCH. In the year 1630, a certain restoration of that temple appears to have been carried out, at an expense of 100 scudi. From that time until the year 1787, no further mention is made in the acts of the Holy Visitation concerning the restoration of the temple, although mention is made of the same temple. Whatever events occurred subsequently until the year 1825 were not recorded: it was, however, known until the year 1825 that a certain Clericum had served in that temple, and that the Chapter had spent three scudi annually for the restoration of the temple. However, as the temple was deteriorating more and more each day, the Ordinary forbade its use, transferring the celebration of certain Masses that were to be celebrated in that temple to

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the cathedral church; and furthermore, he ordered the Canons to demolish the temple within one year. However, as the Canons did not obey these orders, and the roof began to collapse, the Ordinary finally set a deadline of one month in the Holy Visitation for the repair of the roof; and after that time had passed without any action, he imposed a penalty of 3 scudi per day on the Canons. However, as the Canons considered this decree to be too severe, they offered prayers to the Holy Bishop and King, so that they might be relieved from the decree; therefore, with due observance of the customary procedures, the case was presented under a doubt, which we place in the negative.

SYNOPTIC DISCUSSION.

FROM WHAT THE CANONS DEDUCED. In their prayers, the Canons briefly recounted the history of the matter, and pointed out that from the time that the parish was united with the Chapter, it had been treated as a simple Benefice; for it is written in the decree of union: "Let the property of that table be or be said to be." They also demonstrated that from the year 1590, when the parish was united with the Chapter, the temple had been threatened with ruin; and that from that union, the same Chapter had not received sufficient revenues: for they claimed that those things that had been expressed in the grant made to the pious Sodality, namely, the properties, vineyards, etc., were nothing other than empty formulas and empty words; and that in the decree of union, nothing was written concerning revenues other than: "Fruits, revenues, produce, and emoluments, whatever they may be, which do not exceed twelve ducats of gold from the treasury." Furthermore, it was stated in the decree of the Holy Visitation in the year 1630 that the parish was united with the Chapter because of the insufficiency of revenues.

[*Latin ed. p. 423*]

DEMOLITION OF A CHURCH. 423. Although the revenues were meager, the Chapter had nevertheless not neglected to restore the church; and if it has remained standing from that time until now, that is, for approximately three centuries, this should be attributed to the care of the Chapter. However, the church itself, being very dilapidated by the ravages of time, requires almost a new building, which, by justice, should not burden the Canons. Furthermore, some objections were raised regarding the suitability of the location; whether, in fact, it would be advisable to maintain the church in those remote parts of the city. They described the location as being almost inaccessible in winter; indeed, they stated that, thirty years ago, a wall was built in front of the church door, which deprived the church of air and light, and that the waters that collect behind the walls and beneath the church, penetrating the foundations and increasing the dampness, con-

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tribute to the greater ruin of the church; and that there was also a certain hidden place near the church, which allowed access to improper activities.

FROM WHAT THE ORDINARY DEDUCED. He also briefly recounted the history of the matter, stating that the parish had been united with the Chapter, which had gladly accepted this union, not in order to destroy the church, but to increase the divine worship and the preservation of the same church; however, the Canons had not taken much care of the church, which could have been preserved with little expense; but from the year 1825, the Chapter had abandoned all care for the church of its benefice, to the detriment of the piety that was great among the people towards the venerable image of the Crucifix; and thus, the roof collapsed, and all that followed was the result of this abandonment. He pointed out that the Chapter was being moved by equitable considerations to easily restore the church; but he warned that the utility of a church should not be judged by the location in which it is found, but by the piety with which the faithful regard it. Furthermore, he rejected the objections raised by the Chapter regarding the inconvenience of the location, which should rather be attributed to the fault of the Chapter itself.

FROM WHAT WAS NOTED BY OFFICE. Referring to the Tridentine Constitution, chapter 7, session 21, of the Council of Trent, concerning the demolition of churches, and to the words of Cardinal De Luca, *Disputationes*, 7, number 1, *Annotationes ad Conc. Trid.*, it was noted that there could be no general rule in this matter, since the judgment regarding the demolition of churches depends entirely on particular circumstances; moreover, the author notes that the demolition of a church can occur due to various reasons.

[*Latin ed. p. 424*]

424. DEMOLITION OF CHURCHES. The causes are: "namely, when churches already existing outside of towns, and in rural areas, or otherwise situated, serve as a refuge for delinquent and wicked men, and disturb public order." And the Sacred Congregation of Councils has not infrequently consented to the demolition of sacred buildings, due to such circumstances, as is recorded in the demolition of the church in Iesi, on August 26, 1780, §. Sacra. But, it has not consented to demolition when there is not a just, urgent, and necessary cause, as is also recorded there, §. P. tout. Dubium. "And how is the Decree issued in Wechte to be confirmed, or rather, how should the requests of the Chapter be approved in this case?"

RESOLUTION — The Sacred Congregation of Bishops and Regular Canons, having considered the question on September 7, 1866, decided: Affirmative to the first part, according to the manner; negative to the second. The manner prescribed by the Sacred Congregation was that the Chapter should be given a term of one month to propose a method for repairing the damage to the church, with the penalties

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meanwhile suspended, and that the matter should be referred to the second Congregation after the summer recess (I).

CAUSES FOR POSTPONEMENT. — The Chapter did not act with the diligence that was appropriate, according to the mandates of the Sacred Congregation; indeed, after presenting certain complaints, it requested a review of the case; therefore, the doubt is: "Should a review of the case be granted, or rather, should further proceedings be undertaken?" The Sacred Congregation responded on February 1, 1867: Negative regarding a new hearing, and with the intention: that the term should be extended for another month, after which, if it should expire without result, the penalties which the Ordinary had stipulated in his Decree would take effect (1).

(1) These are the most ancient formulas used by the Holy Congregations when they postpone the judgment of cases: when they postpone the resolution of a case, without any determination of time, they often use the clause: "dilata," which simply signifies that the resolution has been postponed; when, however, they determine the time of the postponement, they often say, for example, "dilata ad primam"; that is, to the first immediately following Congregation; also, "dilata ad primam post proximam"; that is, to the second subsequent Congregation; and according to the diversity of months, they often say: "dilata ad primam post aquas"; that is, after the summer vacation; also, "dilata ad primam post cineres"; that is, after the Feast of the Purification; also, "dilata ad primam post Agnos"; that is, after the feasts of Easter; also, "dilata ad primam post Reges"; that is, after the feasts of the Nativity and the Epiphany. Almost all of these clauses have been borrowed from the most ancient Sacred Rota Tribunal.

[*Latin ed. p. 425*]

DEMOLITION OF A CHURCH. 425 The Ordinary had been warned by the Holy See, and a report was to be presented to the Congregation in the following April. The report was therefore presented at the appointed time to the Holy Congregation, and after hearing the Ordinary again, two proposals were presented before the Holy Congregation for the restoration of the church, the first involving expenses of 494 scudi, and the second of 388 scudi; therefore, the question arose: "Which, how, and which of the two proposals should be ordered for execution in this case?" The Holy Congregation decided on February 7, 1868: Affirmative for the first proposal, subject to the approval of the Bishop, but with the condition that the work must begin within three months and be completed within four years. FROM WHICH WE GATHER: I. That one should not immediately proceed to the demolition of a church, unless there is a single reason why the church is deteriorating, even if it is not a parish church. II. That the restoration of churches should primarily concern those to whom the church immediately belongs; especially if they have accepted the burden of the church and its related obligations. III. That, in the absence of serious reasons, one should

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not proceed to that destruction which would result in detriment to the divine worship and the piety of the faithful. EMPHYTEUSIS. On September 13, 1867. Common practice teaches that a church usually grants its lands in emphyteusis, but it is by no means the case that lands belonging to the church are granted in emphyteusis by others. The question we propose to the reader is this: the church acts not as a direct owner, but as a beneficial owner. Summary of the facts. A certain pious Society, from a time whose beginning is unknown, belonging to the most noble house of the Dynastars,

[*Latin ed. p. 426*]

426. EMPHYTEUSIS. By the title of emphyteusis, it obtained possession with an annual payment of eight scudi. At the beginning of the preceding century, the same Sodalitas had granted to the family A. a sub-emphyteusis of the vineyard, with the added agreement that they would pay eight scudi directly to the landowner, while they themselves would pay five scudi to the Sodalitas. However, at the end of the same century, due to a change in circumstances, the full ownership of the vineyard reverted to the pious Sodalitas; and it then happened that, under the same conditions, namely, the payment of eight scudi to the landowner and five scudi to the Sodalitas, the vineyard was transferred to another family, C. Subsequently, this family turned to the landowner, in order to be properly recognized by him as the usufructuary; and therefore, after paying the customary fee, a public deed of recognition was drawn up; it should be noted that mention was made therein of the payment, and that it was designated as perpetual: likewise, mention was made of the instrument of concession, which the Sodalitas had drawn up with the family C. some time before, with the help of a Notary, although it did not indicate by what title that concession had been granted. Since the instrument of this concession made by the Sodalitas could not be found, it could not be certainly determined whether that concession was to be considered as made by the title of lease or of sub-emphyteusis; and even if it were considered as emphyteusis, it was not known whether it was to extend to the third generation or in perpetuity. Meanwhile, at that time, when the Sodalitas was forced to transfer its assets to the state under the force of the unjust Napoleonic law, it declared that the vineyard had been granted to the family C. in perpetuity. In the censual registers (commonly called the Catasto), the ownership of the vineyard by the family C. was recorded, but it did not state whether it was for a time or in perpetuity. In the books of administration which the pious Sodalitas kept, the concession of the vineyard to the family C. was sometimes described as emphyteusis, and sometimes as a mere lease. In this state of affairs, the family C., in order to be able to establish the stability of its property, petitioned the Most Reverend Bishop and the authorities, so that a new instrument might be drawn up, whereby, after paying a single sum of fifty

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scudi to the petitioner, they would be granted the vineyard in emphyteusis.

[*Latin ed. p. 427*]

EMPHYTEUSIS. 427, under the same perpetual tenure, with the direct lord and the useful lord, depending on it, the Sodalitas itself would grant the vineyard. After prayers for information and the vote of the Ordinary, with the injunction that the members of the Sodalitas should be heard capitularly; at the command of the same Ordinary, a meeting of the Sodalitas was held, and in it two different propositions were put to deliberation: one, whether the free useful ownership of the vineyard should be claimed against the family C.; which was rejected by all votes; the other proposition, whether the vineyard should be transferred to the same family C. in emphyteusis, for the sum of one hundred *scuta* at once, which proposition was rejected by all votes. But the Ordinary considered this second proposition to be beneficial to the Sodalitas, and therefore to be embraced. Therefore, having invited the parties concerned to present their rights, the matter was brought to the consideration of the Most Reverend Fathers.

THOSE THINGS WHICH WERE PRESENTED TO THE PIOUS SODALITY AGAINST THE PRAYERS OF THE FAMILY. — The members of the Sodalitas maintained that no attention should be given to the prayers, but rather that the vineyard should be recovered by legal action; for they asserted that the family C. held the same vineyard under the title of lease, and not under the title of emphyteusis: they said that, in the first emphyteutic contract, a written document was absolutely necessary, both according to canon law and according to civil law in the Pontifical jurisdiction, according to the modern laws of Gregory XVI. Indeed, the document, by which the Sodalitas is said to have granted the emphyteusis to the family C., had never been produced, nor could it be produced: for every investigation made concerning that matter had come to nothing: this was the argument, and it had no place; moreover, all the records in the Sodalitas' archives concerning the granting of emphyteusis, dating back to a much earlier time, namely from the beginning of the last century, were carried out in favor of the family A.; but, without a doubt, records of emphyteusis in favor of a more recent family, at the end of the same century, should be present. Secondly, the members of the Sodalitas asserted that the emphyteusis did not exist, because the deed of alienation contained the words "Beneplacitum Apostolicum," which was necessary; but there was no trace of such permission having been obtained: although the family C. had a complete copy of the Apostolic rescript from the archives of the Holy See.

[*Latin ed. p. 428*]

428 EMPHYTEUSIS. They maintained that they had never been able to demonstrate the same thing; indeed, if they had demonstrated it, the victorious party would have remained so. They argued a third point, stating

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that in the books of administration kept in the archives of the Sodalities, the aforementioned contract was most frequently designated as a lease: and that if, at times, it was noted as an emphyteusis, this was due to error and ignorance; and that the same defect afflicted the assignment granted by the Sodalities concerning the demesne, as well as another entry found in the censual records. They argued a fourth point, stating that the Family C. could not derive any right to their benefit from the instrument of recognition celebrated with the most noble family as lords: for that matter concerned only the two families involved, and the Sodalities had no part in that matter; but, truly, nothing is more common than for a matter between others to harm a third party not involved. Finally, they argued that, even if, hypothetically, the contract had been declared not to be a lease, but a sub-emphyteusis, this sub-emphyteusis should be considered limited to the third generation: for it is doubtful that ecclesiastical emphyteuses are considered perpetual; therefore, since the families of Family C. were already in the third generation, the devolution of the property was imminent.

WHAT FAMILY C. PRESENTED IN FAVOR OF THEIR PRINCIPALS. — They contended that there could be no doubt about the emphyteutical contract, and that it would be beneficial to the Sodalities if, in order to eliminate controversies, they were to request, upon payment of fifty scudi, that the vineyard be granted to them perpetually through a new instrument.

However, they responded to the first point, stating that a written document had intervened in which an explicit mention was found, and that a Notary had been named in the instrument of recognition as lords: for it is one thing for a written document not to be found, and another for it not to have existed; in the second case, both S. Bota and S. C. Episcopus, and Reg. did not hesitate to pronounce a judgment on the validity of the emphyteusis, as in the case of Montisfalisei, September 23, 1859, and in another case in the same diocese, May 6, 1864. They responded to the second point, stating that nothing would be invalidated if the Apostolic Beneplacitum were not presented, which had been lost along with the written document: and indeed, in both cases mentioned above concerning Montisfalisei, the Pontifical Rescript was also lacking, and although they had requested it along with the written document, the emphyteusis was nevertheless judged to remain in full force.

[*Latin ed. p. 429*]

EMPHYTEUSIS. 429 He responded to the third point, stating that the document taken from the administrative records had no validity; because it clearly contradicted both the assignment of the land made to the demesne, and the public census records, and finally, the very books in which, according to the confession of the members themselves, the contract had been recorded, although sometimes called a lease, much more frequently it had been called an emphyteusis. He responded to the fourth point, stating that

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the best document to be obtained for the purpose of proof was the instrument completed with the directress. For, although matters transacted between others do not harm a third party, they are indeed valid concerning agreements entered into between them; but here, the question is whether what was stated there is true or not: whether the directress knowingly recognized the sub-emphyteusis, without first seeking advice. Finally, he stated that the controversy was in such a state and with such terms that pious Joakim could demonstrate this through numerous legal proceedings: and it seemed more likely, from what had been examined, that the family C. would emerge victorious. "Concerning the prayers (of the Family C.) for declaring a perpetual sub-emphyteusis of the vines in Kosso," the question was: "Whether and how, and under what conditions, it should be approved."

RESPONSE. — On September 13, 1867, the Fathers replied: "Affirmatively, with the stipulation of a perpetual sub-emphyteusis with an annual payment of 5 scudi, and with the payment of the canon due to the Directress, with all burdens imposed and to be imposed, and also with the 80 scudi paid at the time of the stipulation of the instrument, in favor of the pious foundation."

FROM WHICH IT MAY BE GATHERED: 1. Although the Church often grants its own property to others in emphyteusis, there are also cases in which it receives the property of others in emphyteusis (1).

(1) It may perhaps be asked, whether in this second case the Apostolic Beneplacito is required. Whatever may be said regarding objections that could be raised to exclude the necessity of the Apostolic Beneplacito, it is true that the Church, together with other obligations, assumes the burden of paying the agreed-upon canon to the directress each year. Let it be so, that from the benefit it derives, from the domain, it collects fruits with which it satisfies the burden, and that what remains, it retains for itself: this can easily be done.

[*Latin ed. p. 430*]

430 EMPHYTEUSIS. In contracts, which, due to a lack of documentation, cannot be certainly defined as to their nature, the Holy Congregation can easily approve equitable agreements proposed to prevent disputes, so that for many years, these fruits may be withheld due to various misfortunes; furthermore, there are many other obligations by which the emphyteuta is directly bound towards the lord by law. Hence, it follows that the Sacred Congregation of Bishops and Regulars not only requires the Apostolic approval to be sought, but moreover, it deems that it should be granted only with some grave difficulty, as can be gathered from a certain case of Roman approval of an emphyteusis contract of June 17, 1842. The nature of this consultation was as follows: a certain religious community in the venerable City was in need of a rural house, so that young men devoted

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to studies might find recreation. Therefore, a certain lay person obtained an emphyteusis of a vineyard with a suitable rural house, with the condition of seeking Apostolic approval. For this reason, the Sacred Congregation of Bishops and Regulars was petitioned; and adhering to the already flourishing discipline, it presented not a few difficulties to the approval of this passive emphyteusis. However, the Moderator of the aforementioned community insisted more and enough that the contract be approved, so a plan was initiated to discuss the matter in a plenary session, after hearing the parties and the Most Reverend Vicar of the City; and the following question was proposed: "Whether and how a passive emphyteusis contract should be approved in this case." To this, the Most Reverend Fathers responded affirmatively, considering the particular circumstances present in the case, in accordance with the opinion of the Most Reverend Vicar of the City, and with the necessary and appropriate precautions taken. I refrain from mentioning the individual circumstances that were reported by the author of the Consultation; I will mention only two: namely, that the religious community had already incurred many expenses in order to improve the vineyard, concerning which the concession was to be granted; and secondly, that a certain private person had promised a considerable sum of money to the religious community, under the title of a gratuitous donation, in order to more easily acquire the aforementioned emphyteusis.

[*Latin ed. p. 431*]

431. A WARNING TO THE PRESBYTER CYRINE RINALDI. The following warning was published in the official journal of *Romano* on February 17, 1868. "Our Most Holy Lord Pope Pius, considering with grave concern the evils that have arisen in the Churches of Sicily due to a so-called Legation and a so-called Tribunal of that Monarchy, deemed it opportune and effective, as befits the supreme office of his apostolic ministry, to apply a remedy. Therefore, on the 10th of this month, he promulgated Apostolic Letters sealed with the Bull, beginning with the word "Suprema," by which he abolishes the aforementioned so-called Legation and Tribunal, and completely extinguishes and abolishes the office and function of both the aforementioned Judge of that Tribunal, and of all other officials and ministers who in any way belong to the same Tribunal. Furthermore, considering the spiritual needs of the faithful of Sicily, at the same time, the same Supreme Pontiff issued and promulgated Apostolic Letters sealed with the Fisherman's Ring, by which special faculties are granted to the clergy of that Island. " After such publication, which constitutes a solemn act of the supreme authority of the Church, it is certainly not permissible for any Catholic to in any way oppose this act, but rather all must conform to the pontifical ordinances contained in the aforementioned Apostolic Letters sealed with the Bull. Therefore, Presbyter Cyrine Rinaldi, who held the office of judge of that so-called Monarchy, so that you may never be

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excused from observing the aforementioned Apostolic Letters, under the pretext of ignorance or any other excuse, and, may God prevent it, with the detriment of your soul, and the harm and scandal of the faithful, this Supreme Pontiff expressly gave orders to this Sacred Congregation, which is responsible for the affairs of Bishops and Regular Canons, to send you a copy of the aforementioned Apostolic Letters sealed with the Bull, and at the same time, in his own name, and with apostolic authority, to..."

[*Latin ed. p. 432*]

432 * WARNING. It announces the penalty of a greater excommunication, which is incurred by the very act, with final judgment, without any other declaration, and whose absolution is reserved to the Supreme Pontiff alone, except only when you are in the article of death, whenever, directly or indirectly, and in any way, you have dared to impede the execution of those very Letters, or to retain the name of the office which you held, or to engage in the exercise of that same office under any title, pretext, or guise, and by any act, even extrajudicial and economic, also carried out through an interposed person. "Therefore, this Holy Congregation of Bishops and Regular Canons, acting by the order of the Most Holy Pope, sends you a copy of those same Apostolic Letters, sealed with lead, entitled 'Suprema,' and, with this present Warning, indicates to you the penalty of excommunication established by His Holiness, as stated above, and at the same time declares that the threat of this very excommunication does not intend to diminish other ecclesiastical censures and penalties, which the Sacred Canons and Apostolic Constitutions inflict on those who impede the execution of the Acts of the Holy See, or who usurp ecclesiastical jurisdiction, or who disturb the free exercise of the authority of Bishops." Furthermore, with regard to the acts committed through abuse, which you have perpetrated in times past, Holiness urges and warns you again and again, especially mindful of your priestly condition, to diligently and seriously consult your conscience, keeping before your eyes that the penalties imposed by men can be evaded, but the hand of the punishing God can never be avoided. "Given in Rome, from the Secretariat of the Holy Congregation of Bishops and Regular Canons, on the 15th of October, in the year 1867. " A. CARD. QUAGLIA, Prefect. Stanislaus Svegliati, Secretary.

[*Latin ed. p. 433*]

FROM THE HOLY CONGREGATION FOR ECCLESIASTICAL IMMUNITY. DECLARATORY LETTER CONCERNING THE PRIVILEGES OF CLERICS. Dated 20 September 1860. "The Holiness of Our Lord, Pope Pius IX, has declared that a cleric who is not in Holy Orders, whether celibate or married, who, by not exactly observing what is prescribed by the Most Holy Council of Trent, Session 23, chapter 6, concerning Reform, loses the privilege of the forum, is to be understood, and by the very law and fact,

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to have lapsed from all clerical privileges, so that he must be considered and treated as a mere lay person, even in criminal cases, and for penal effects, without it being required henceforth that the previous threefold admonition, or the particular declaration concerning such lapse, be given (1). (1) The aforementioned declaration, which was sent in Latin to each Ordinary of the Pontifical Territory in the year 1860, reads as follows: "The Most Holy Pope Pius IX has declared that a cleric who is not established in the Holy Orders, whether celibate or joined in marriage, if, having not diligently observed what the Most Holy Council of Trent, Session 23, chapter 6, concerning Reform, has prescribed, he loses the privilege of the forum, he is to be considered as having lapsed, and by the very law and fact, as having lapsed from all the privileges of clerics, so that he must be held and treated as a mere lay person, even in criminal cases and for penal effects, so that henceforth a threefold admonition, or a particular declaration, is not required to have occurred in this penalty." See Appendix VIII.

[*Latin ed. p. 434*]

434 * FROM THE HOLY CONGREGATION FOR INDULGENCES, DECREES. December 17, 1867. Supplicating Prayers. "Since the Most Holy Pope Pius IX has deigned to grant to each priest who cares for souls, who come to Rome to Ceret, near the Basilica of Saint Peter, the faculty of once bestowing the Apostolic blessing with the full application of a plenary Indulgence to those entrusted to their spiritual care, on a day designated by their own Ordinary: in the Instruction, which was published under the title of the Apostolic Allocution, it is declared that this blessing can only be conferred by those who are either parish priests, or assistants to parish priests, or administrators of pious institutions, or of hospitals, or of penal prisons. Frederick Falcinelli, parish priest in the town commonly called Monligallo, in the diocese of Cesenatis, humbly presents the following doubts to Your Eminence: I. "Whether those priests should be included among the assistants to parish priests, who are present to their own parish priest in parochial functions, and who are commonly called chaplains. II. "Whether, by 'administrators of pious institutions, or of hospitals, or of penal prisons,' are understood the confessors of nuns, of women residing in convents, of hospitals, and of penal prisons?"

RESPONSE: "The Most Holy Pope Pius IX, in an audience held with the undersigned Cardinal Prefect on December 17, 1867, ordered that the following doubts be answered: To I. Affirmative, provided that the chaplains habitually provide assistance to the parish priest, and provided that the respective parish priest has not come to Rome, and that their consent is given for the blessing to be given. To II. Affirmative. Furthermore, in all other respects, the original concession made by the Most Holy Pope must be observed in its entirety."

Given in Rome, from the Secretariat of the Holy Congregation for Indul-

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gences, on December 17, 1867.

I. Cardinal BIZZARRI, Prefect.

A. COLOMBO, Secretary.

[*Latin ed. p. 435*]

FROM ROME AND THE UNIVERSAL INQUISITION, AN APOSTOLIC DECREE GRANTING TO THE TRAPPIST MONKS THE FACULTY OF DISPENSING WITH SOLEMN VOWS. Supplicating Prayers, February 5, 1868. TO THE MOST BLESSED FATHER. "Gregory XVI. Holy Father, the Supreme Pontiff, on March 1, 1837, declared that the vows of the Trappists, which from that day forward would be taken within the boundaries of the Kingdom of France, should be considered as simple vows, and this until otherwise determined by the Apostolic See. This declaration was applied by Your Holiness to the Trappists in Ireland, then in Belgium, and finally to all those wherever they may be found, with the exception of those belonging to the Monastery of Casamari. In the meantime, at Your Holiness's command, the question was examined as to whether it would be advisable to confirm and establish with a firm decree the aforementioned declaration for all Trappists, and rather to decree that the Trappists, as reformed Cistercian monks, may dispense with solemn vows, provided that suitable precautions and conditions are observed. For this reason, the opinions of several Bishops were sought, and the Vicars General of the three Trappist Congregations were also heard. All of them, with the consent of the aforementioned Bishops, earnestly and urgently implored the clemency of Your Holiness to deign to grant them the faculty of dispensing with solemn vows, in accordance with their most ardent desire. WHEREFORE, on Thursday, February 5, 1868. "His Holiness, Our Lord, Pope Pius, by Divine Providence, PP. IX, in his customary audience with the Reverend Father, the Assessor of the Holy Office, having heard the report concerning the supplicating petition, together with the votes of the Most Reverend Cardinals, Inquisitors General of Rome and of France, decreed as follows: That all reformed Cistercian monks, commonly called Trappists, wherever they may be found, with the exception of those belonging to..."

[*Latin ed. p. 436*]

486 *• APOSTOLIC DECREE. The monastery of the Most Holy Name of John and Paul at Casamari, located in the Diocese of Verula, stipulates that after two years of novitiate, those who make simple vows do so for a period of three years. After this period has elapsed, they may be able to pronounce solemn vows, provided that, indeed, the profession of solemn vows may also be postponed for just and reasonable causes, but not for longer than five years after the simple vows have been taken, with all other prescriptions and declarations issued by the Holy Congregation concerning the status of religious being observed. Contrary provisions notwith-

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standing. » Place of the Seal. ANGELUS ARGENTI, Secretary of State and of the Holy See. FROM THE HOLY CONGREGATION, INDEX. The following books, with the usual restrictions, were prohibited on February 18, 1868. *Lezioni di letteratura italiana nell'Università di Napoli dettate da Luigi Settembrini*, Volume L, Naples, 1866. Decree of July 4, 1867. *La France sous Louis XV (1715-1774)* by Alphonse Lobez, former representative. Paris, Librairie Académique, Didier et C., 1865. *Histoire de France depuis les temps les plus anciens jusqu'à nos jours, d'après les documents originaux, et les monuments de l'art de chaque époque*, by M. M. Henri Bordier and Edouard Charton. Paris, 1864. *De la séparation du spirituel, et du temporel* by Miron. Paris, Librairie des Sciences sociales de Noirot et C., 1866. *Zwei Thesen für das allgemeine Concil* by G. C. Mayer, Professor of Dogmatics. Bamberg, 1868. Printed and published by Otto Reindl; i.e., *Theses duae pro Concilio Oecumenico* by Doctor G. C. Mayer, Professor of Theology and Canon of the Metropolitan Church of Bamberg. Bamberg, at the expense and printing of Otto Reindl, 1868. *Theologische Einwendung gegen die scolastiche philosophiae Lhere vom Menschen im Entwürfe* by S. Spoerlein, Professor of Church History at the Lyceum in Bamberg, Bamberg. Printed and published by Otto Reindl, 1867; i.e., *Objectio Theologica contra Scolastico-Philosophicam de homine doctrinam compendio proposita* by S. Spoerlein, Professor of Church History at the Lyceum in Bamberg. Bamberg, Reindl, 1867.

[*Latin ed. p. 437*]

437 FROM THE CONSISTORY ACTS. In a secret Consistory held on December 20, 1857, His Eminence and Reverend Cardinal Grassellini, having relinquished the title of deacon of the Saints Vitus and Modestus, requested the diaconate of Saint Mary of the Martyrs. Then, Our Most Holy Lord, after delivering the Allocution which we presented on page 289, proposed the following churches. The ARCHDIOCESAN CHURCH of SEBASTIAN, vacant in the parts of the infidels due to the transfer of Reverend Father Andrea Charvaz to the metropolitan See of Genoa: to it was promoted Reverend Father Caietan Brinciotti, already the Bishop of Balneoregio. The CATHEDRAL CHURCH of BALNEOREGIO, vacant due to the willing and joyful resignation of Reverend Father Caietan Brinciotti, which was carried out and accepted by Our Holy Lord: to that church was promoted Reverend Father Raphael of the Most Holy Conception, a priest of the diocese of "Ventimiglia" and a professed member of the Order of Discalced Carmelites; who, among other things, in his province of Genoa, served as a lecturer of philosophy, was a provincial definitor, and a renunciated prior, and has served as the acting provincial superior. Balneoregio, a city of the Patrimony, located in the territory of Orvieto, has a circumference of almost a mile, contains approximately four hundred houses, and is inhabited by almost two thousand people, who obey the Holy Apostolic See also in

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temporal matters. The Cathedral Church of Saints Donatus, Bishop and Martyr, Nicholas, and Bonaventure, Bishop and Doctor of the Church, is immediately subject to the same Holy Apostolic See. Its Chapter includes two dignities (of which the first after the pontifical is the Archdeaconry), sixteen canons with each prebend, several chaplains with benefices, and other priests and clerics serving in the ministry. The Chapter has the care of souls, which is administered by two canons-curates in the Cathedral, where there is a baptismal font, etc., and among the sacred relics, the arm of Saint Bonaventure is preserved, along with other important patrons, and the head of Saint Hildebrand, Bishop of the city and patron, are decently kept; there is a choir; and outside the city there is a cemetery. Another church is also found in Balneoregio, which was formerly the Cathedral, but is now only a parish church; in addition, there are two monasteries for men and one for women, several lay sodalities, a hospital, a pawnshop, and a grain store, and a seminary. The CATHEDRAL CHURCH of OLINDEN, vacant due to the death of the Most Reverend Bishop Emmanuel do Rego de Me'deiros, to which, through the benevolence of Our Holy Lord, Reverend Father Francis Cardozo Ayres, a priest of the diocese of Olinda and a professed member of the Institute of Charity, was promoted for presentation to the Emperor of Brazil. He worked in preaching the word of God in England and Ireland, and in administering the sacraments of confession. Olinda, a city and the capital of the province of Pernambuco, located near the sea, is built on a hill with a large port, contains approximately ten thousand houses, and is inhabited by approximately ninety thousand people.

[*Latin ed. p. 438*]

FROM HISTORICAL ACTS. 438 inhabitants, under the temporary dominion of the Most Serene Emperor. The Cathedral Church, dedicated to the Most Holy Savior, has an Archbishop. The Savior in Brazil suffers. Its Chapter consists of four Dignitaries (of which the first, after the pontifical office, is the Deanery), sixteen Canons with a theologian and penitentiary, other priests, and clerics serving in the divine ministry. The care of souls is exercised by a parish priest in the Cathedral, where there is a baptismal font, etc. Five other parish churches are also present, all equipped with baptismal fonts, four for men and three for women, along with several monasteries, numerous lay sodalities, several hospitals, a house of mercy, and a seminary; however, a house of piety is lacking. The extent of the diocese is very wide and encompasses many places. NAMUR (here is the Deanery), nine Canons, with both a prebendary and a penitentiary, other priests, to whom are added, on solemn festivals, clerics from the seminary serving in the divine ministry. The care of souls is exercised in the Cathedral by the parish priest, who acts as Dean, where there is a baptismal font, etc., and outside the city there is a cemetery. Five other parish churches are also present, three in Namur and three in the surrounding areas, all equipped

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with baptismal fonts, three for men and two for women, along with several religious houses, five conservatories, numerous lay sodalities, four hospitals, and a seminary; however, a house of piety is lacking. The extent of the diocese extends to thirty-four leagues in length and sixteen in width, encompassing the provinces of Namur and Luxembourg in Belgium, approximately seven hundred parishes, and many other places, totaling around six hundred thousand souls. The position of CEN was vacant due to the translation of the Reverend Father Victor Augustus Isidore Dechamps to the metropolitan See of Mechlin, to which the Reverend Father Theodore Joseph Gravez, a priest of the diocese of Tournay, was appointed, who had been lecturing on philosophy and dogmatic theology at the Seminary of Tournay, and who was co-opted among the Apostolic Protonotaries, having previously resigned from the parish and Deanery of St. Elizabeth in the same diocese. Namur is a large and pleasant city in Belgium, the capital of the province of Namur, located on the rivers Sabina and Moselle, and contains approximately one thousand eight hundred houses, along with its suburbs, and is inhabited by almost one thousand citizens who profess the Catholic religion. The Cathedral Church, dedicated to the Martyr St. Alban, is a suffragan of the Archbishop of Mechlin. Its Chapter consists of four Dignitaries (of which the first, after the pontifical office, is the Deanery), which became vacant due to the death of the Most Reverend Bishop Joseph Geritz, to whom, by virtue of an Apostolic Indult, the Reverend Father Philip Krementz, a priest of the diocese of Treves, was elected by the Chapter and Canons of Warmia, and confirmed by the Most Holy Lord. Warmia is a royal prefecture of Prussia, located in the province of East Prussia, and gives its name to the Episcopal See of Warmia, whose seat was formerly located in the city of Fravenburg. Furthermore, the aforementioned city, located in the province and on the banks of the Habi sinus, where it receives the river Sehon, has approximately three thousand inhabitants. The Cathedral Church, dedicated to the Blessed Virgin Mary, assumed into heaven, is immediately subject to the Apostolic Holy See. Its Chapter consists of two Dignitaries (of which the first, after the pontifical office, is the Prelate), eight numerary Canons with a theologian and a penitentiary, four honorary Canons, other priests, and clerics serving in the divine ministry.

[*Latin ed. p. 439*]

FROM the Acts, the care of souls is exercised least in the Cathedral, but rather in the nearby parish church equipped with a baptismal font; in the Cathedral, however, the relics of the Saints are religiously preserved, namely the bodies of the Martyrs SS. Theodore and Saturninus, and outside the city there is a cemetery. Besides the Cathedral and the aforementioned parish church, there is no other church in Friburg, but only a hospital and a seminary in the city of Braunsberg; however, a place of devotion is lacking. The extent of the diocese is quite wide, encompassing

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more than one hundred and thirty parishes.

THE EPISCOPAL CHURCH OF CYRENE, located in the territory of the Patriarchate of Alexandria in lands among the infidels, became vacant through the death of the Very Reverend Father Martin Simienski, to which the Reverend Father Anthony Canzi, a priest of the Archdiocesan of Bologna, was appointed. He, having received a doctorate in both laws, has excelled in performing ecclesiastical duties, especially in administering the sacraments of confession; he was chosen as a judge of that court and as a consultant for various institutions, as well as being the Rector of a college for boys, the commissary of the Fabric of St. Peter, and the appointed visitor of the Archdiocesan. Subsequently, he was made a canon, and then elected as both Pro-Vicar General and Vicar Capitular; he was then assigned among the secret chamberlains of His Holiness, and later among the domestic prelates, and was made a canon of the Patriarchal Basilica of the Lateran for honor, and recently resigned from the position of Archdeacon of the metropolitan Church of Bologna. Cyrene is the primary city of the region of Cyrenaica in Libya, often mentioned in sacred writings, and is still miserably subject to the yoke of the infidels.

THE EPISCOPAL CHURCH OF LEUCAS, located in the territory of the Archbishopric of Nnupact, among the infidels, became vacant through the death of the Very Reverend Father Angelic Benedikt a Capronsa, the Bishop of that diocese, to whom the Reverend Father Lotharius Kübel, a priest of the Archdiocesan of Freiburg, was appointed, who, having been appointed as Director in the theological college of Freiburg, previously exercised the care of souls as a parish priest there; he was chosen as an ecclesiastical advisor and assessor of that archiepiscopal court, and later resigned as Dean of the same chapter, and is currently performing the duties of General Vicar in spiritual matters for the city and the Archdiocesan. Leucas, a city on the island of the Ionian Sea, formerly connected to the mainland of Achaia, is still under the dominion of the infidels.

THE CATHEDRAL CHURCH OF ST. JOHN THE BAPTIST OF CUYO, located in the Republic of Buenos Aires, to which the Reverend Wenceslaus Achaval, a priest of the diocese of Salta, was appointed, who, having professed in the Order of the Friars Minor Observant of St. Francis, is already a Provincial of his Order in the province of the Most Holy Assumption in the Republic of Argentina.

AFTER these matters, the Most Holy See has declared the following elections, which have already been mandated by the Sacred Congregation for the Propagation of the Faith:

THE CATHEDRAL CHURCH OF ARDAGADEN, located in Ireland, to which the Reverend Cornelius Mac-Cabe, an Irish priest, was appointed.

THE EPISCOPAL CHURCH OF AEGEN, located in lands among the infidels, to which the Reverend Father Dominic Reynaudi of Ville France,

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a Capuchin friar, was appointed as Apostolic Vicar in Sophia and Philippopolis.

FINALLY, a petition has been made for the Sacred Pallium for the metropolitan church of Mechlin.

[*Latin ed. p. 440*]

440 APPENDIX VII. FORMULA BY WHICH BISHOPS ARE GRANTED, BY THE HOLY CONGREGATION, THE FACULTY OF ABSOLVING FROM OMITTED MASSES, AND OF REDUCING PERPETUAL MASSES FROM PIOUS ENDOWMENTS: It is not customary to grant this indulgence by Pope Benedict XIII. The Holy Congregation of the Council most frequently undertakes to examine, in each case, the requests for absolution and reduction presented by individual legatees. On this matter, Angelus Lucidi, in his recent work *De Visitatione SS. Liminum*, volume 2, pages 425 and following, discusses, in accordance with the practice of the Holy Congregation, the formula which is given to the local Ordinaries when they are granted the faculty to reduce the number of Masses. This formula is of the following tenor: "The Most Holy Lord, having heard the report presented by the Secretary of the Holy Congregation, and favorably considering the prayers of the Bishop, grants to him the faculty, for the next three years only, to absolve, in good faith, the truly poor from the obligations of perpetual Masses for past omissions, provided that, in each case, those who require such absolution are in need thereof, according to the circumstances of the person, the time, and the quantity of Masses; and to apply, for the benefit of the souls of the testators for whom the Masses were to be celebrated, but were not celebrated, and also to apply, by some other pious work, as mentioned above, the same. Furthermore, the Bishop is granted the faculty, for the future, to similarly grant, while the aforementioned three-year period lasts, the obligations of the aforementioned perpetual Masses, provided that they have not been reduced in any other way, to the terms of the Indulgence of Pope Benedict XIII, as impressed in the last General Session, and to observe, in all respects, the form and tenor thereof, and to freely reduce and regulate them according to his own judgment (or conscience). The Indulgence granted by Pope Benedict XIII to the monks of Monte Cassino, which was extended to Bishops who were present at the Council of Rome, is found in title 15, chapter 8 of the Council of Rome, and the entire chapter is as follows: "Recently, with the General Procurator of the Cassinese Congregation of the Order of Saint Benedict present before Us, for the absolution from the hitherto omitted celebration of perpetual Masses in their monasteries, located throughout Italy, and furthermore, for the reduction of the number of Masses to which the aforementioned monasteries would be obligated in the future; the following Decree was issued by the Congregation of the Council, at Our command, in a document bearing its solemn seal." MOST

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HOLY FATHER. The General Procurator of the Cassinese Congregation of the Order of Saint Benedict, humbly presents himself at the feet of Your Holiness.

[*Latin ed. p. 441*]

[XVII. Having considered, he explains the situation of the monasteries of his Congregation, established throughout Italy, which, due to wars, pestilence, contributions, subsidies, tithes, and other calamities, and misfortunes deriving from these and other, alas, very notorious causes, are severely afflicted by poverty. Furthermore, the alms of the faithful are also greatly diminished; and also the funds and endowments of perpetual Masses, from the aforementioned reasons, or others, have either been entirely lost, or greatly diminished and consumed; therefore, the same Procurator earnestly implores for the merciful remission of those perpetual Masses, which until the present day have been celebrated, and have not been celebrated, and for the moderation and reduction of such Masses in the future. July 15, 1724. The Most Holy Lord, BENEDICT XIII, having maturely considered the causes mentioned above, as well as the examples of his predecessors, ALEXANDER VII, CLEMENT X, CLEMENT XIV, and especially INNOCENT XIII, Roman Pontiffs, mercifully absolves from the hitherto omitted celebration of perpetual Masses; and he commands that the Father Abbot General, together with his Assistants, to the extent that they are present in his Religious Order, or, if not, with other more important Fathers, whom he is accustomed to consult, choose, by counsel, one monastery in each Province with the intention of changing it, and another, as often as he sees fit, to be substituted in each Province, in the respective monasteries designated, in whose churches, each year, beginning from the year 1725, on one day within the octave of the commemoration of all the faithful departed, one Anniversary shall be celebrated and applied for the souls of those for whom the aforementioned perpetual Masses were to be celebrated and applied, and which have not yet been celebrated and applied. Regarding the obligations of the perpetual Masses, both those received up to the present day and those to be fulfilled in the future, His Holiness requests that the same Father Abbot General, using the counsel of his aforementioned Fathers, choose two, or even more, Religious men from each Province of Italy, endowed with piety, zeal, learning, and integrity, who, having examined and diligently scrutinized the wills, instruments, books, tables, and other documents in which the obligations of the Masses are described for each monastery in their respective Province, and having determined the revenues attributable to each obligation, as well as diligently investigating and considering any diminution thereof, and especially whether those diminutions are permanent or temporary, shall transmit a clear and faithful description to the same Father General, who, together with the aforementioned Fathers

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Assistants, or other Fathers mentioned above, whom he is accustomed to consult, for the benefit of all...

[*Latin ed. p. 442*]

442 APPENDIX VII. It must be remembered that the conscience (regarding which they are obligated to give a full account to the Supreme Judge, Christ the Lord, and to obtain His prior consent, or permission, before undertaking this burden, which will legitimately enrich them) having been consulted, the Priests of each Church, and of each Monastery, whether new or old, will be able to establish a perpetual Mass, or Masses, provided they can bear the burden and fulfill their obligations through alms of sixty scudi of Roman money for each Mass celebrated daily, within a term of three years from the date of these present decrees; and it must be ensured that the revenues and goods assigned to the Monasteries after the reduction of expenses for perpetual Masses are not listed as ordinary alms, but as perpetual alms, to be assessed according to the custom of each City, Diocese, or Province; and if, in matters of such importance, decisions are made, or negligence is shown, let them know that, by the authority of Their Holiness, and of others, they will be subject to penalties, as determined by Their Holiness, when they fail to render an account to the Supreme Judge, Christ the Lord.

"Furthermore, since certain Venerable Bishops, who convened this Council, have, like us, presented similar petitions, and, in the name of their respective Churches, have requested an extension of the decree; therefore, wishing to grant a special favor, we extend the same decree, as requested, and we grant to those Bishops, not only those who personally attended this Holy Synod, but also to those who, through their Procurators, legitimately requested it, a favorable and appropriate concession, remembering them, and sharing in their intentions; however, we require that they diligently inquire into the obligations and conditions of each Mass to be celebrated."

[*Latin ed. p. 443*]

APPENDIX VIII. ON THE PRIVILEGES OF CLERICS WHO HAVE RECEIVED HOLY ORDERS. Above, we presented an example of a declaratory letter concerning the privileges of a canon, who maintained that he was entitled to the benefit of the law. In the year 1860, a question arose concerning the immunity of clerics, which was brought before the Pontifical Congregation for the Affairs of the Clergy, in order to define the conditions. It is fitting here to indicate the reasons why a certain declaration was not issued, as if it were a path. In the year 1840, in a certain town, Oppido, within the Pontifical territory, a certain man, Titus, a married man, was accused of a barbaric crime. He was brought before the criminal court of that province. During the investigation, Titus, who had been duly initiated with the sacred tonsure and minor orders in his youth, invoked the privi-

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lege of the forum. The court, therefore, consulted the Bishop of that diocese, who requested a review of the case. After examining the matter, the Bishop referred the case back to the secular criminal court, for he recognized that Titus had lost the right to invoke the privilege of the forum, and he did not deem it appropriate to have this matter discussed in an ecclesiastical court. Titus was condemned to the penalty of death; but in the review of the case before the supreme court, his advocate invoked the privilege of the canon, whereby, according to the criminal code, in accordance with the canons, a lesser penalty was imposed on Titus, who had been convicted of the aforementioned crime by a married man, as mentioned above.

[*Latin ed. p. 444*]

444. An instance occurred involving a layperson; this individual, having received the tonsure in his youth, was a cleric. However, it is necessary to explain the entire matter in detail, through the following points, which shed light on this issue concerning clerical privileges, based on the considered opinion of a jurist. In the year 1842, in the diocese of Verulana, Livius committed homicide. This individual, having been apprehended by the criminal court of that province, invoked the privilege of the forum, claiming that he had received the tonsure in his youth, although he subsequently abandoned all intention of remaining in the ecclesiastical state, and having lost the tonsure and ecclesiastical habit, he lived as a layman. When the Bishop was questioned by the court regarding this matter, he declared that Livius had forfeited the right to invoke the privilege of the forum due to the neglected conditions of his clerical state, and he did not deem it appropriate to take up the case himself. However, after the proceedings were completed in the criminal court, it was determined that, in addition to the homicide, Livius had committed another crime shortly before the homicide, namely, that he had wounded a man, who remained incapacitated by that wound; indeed, it was said (although this was not certain) that he had engaged in a scuffle with his own father, using a weapon. Therefore, Livius was condemned to the ultimate punishment for these two crimes; however, he appealed to the highest court, where his defender invoked the privilege of canon law, by which privilege, if Livius had enjoyed it, he would have been treated more leniently, and would have undergone a lesser punishment than the ultimate punishment. Consequently, this question was presented to the Most Holy Congregation, and three formulas for deliberation were proposed. I. "Does a minor cleric who does not observe the requirements of canon law forfeit, along with the privilege of the forum, all other clerical privileges?" II. "Does a minor cleric who, having relinquished his clerical habit, involves himself in serious offenses, forfeit, without prior warning, the privilege of canon law, and under what conditions?" III. "Do these conditions apply in the case of Livius, such that he has forfeited all clerical privileges, and is therefore not entitled to the benefit of a reduction in

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punishment?" Initially, the jurist proposed the following: whether a minor cleric who does not observe the conditions prescribed by the Council of Trent forfeits, along with the privilege of the forum, all other clerical privileges. Regarding this proposition, he stated as follows: Although, according to the old common law, a minor cleric who relinquished his habit could not forfeit the privilege of the forum without a threefold warning, as is evident from chapter [reference missing], and from the hearing concerning excommunication; nevertheless, according to the Council of Trent, which intended to prevent the recurrence of abuses in this matter, the privilege of the forum is forfeited by law itself. Thus, in session 23, chapter 6, concerning reforms, it is stated: "He [that is, the tonsured person, or the minor cleric] shall not enjoy the privilege of the forum, unless he holds an ecclesiastical benefice..."

[*Latin ed. p. 445*]

VIII. If he possesses, or wears, the clerical habit and tonsure, and serves in a church by order of the Bishop, or in a seminary for clerics, or in some school or university, with the permission of the Bishop, as if preparing for the reception of higher orders, he is considered to be under the privileges of the forum. However, a cleric who does not fulfill these conditions, by the very fact, loses the privileges of the forum, as Fagnanus states in Chapter 445 of "De Foro." But Pope Benedict XIV, in his work "De Synodo Dioecesana," book 12, chapter 2, shows that such an opinion is not sustained in practice and is contrary to the resolutions of the Holy Council. Fagnanus also cites these resolutions in Chapter "Si quis, de Foro," and Cardinal Petrucci, volume 2, in his commentary on Constitution 1 of Honorius III, section 1, paragraph 44, and volume 4, in his commentary on Constitution X of Martin V, paragraph 31, and Pigliacelli, volume 4, consultation 2, and Giraldi, "Ex Non," all agree. There have been authors who have held the opinion that a tonsured cleric, or a Minorite who has relinquished his religious habit, loses, with the relinquishment of his clerical insignia, not only the privileges of the forum, but also other privileges, such as those pertaining to the clergy; and the Holy Congregation of the Council has not declared such clerics to be deprived of the canonical privilege, as was stated in Aquila in the year 1589, in which it was decreed: "It is not to be understood that those deprived of the canonical privilege are deprived of anything." In a certain case in the year 1595, Odoardus declared: "Those who enjoy the privileges of the chapter." And in the year 1622, Odoardus also declared: "The decrees of the Council have not taken away from clerics those qualities which are expressed in chapter 6, session 23, unless the privileges of the forum and other established things are understood to be subject to the law." A large number of authors agree with these resolutions. The reason, as given by Benedict XIV in the aforementioned passage, is: "Indeed, when we are dealing with a penal, odious, and restrictive matter

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of common law, the words of the Council of Trent should not be extended beyond the privileges of the forum which they express." Also, Cardinal Petrucci, in the aforementioned commentary on Constitution X of Martin V, paragraph 27, states: "Also, other minor and seemingly incidental things should be understood to be denied."

[*Latin ed. p. 446*]

446. Moreover, it must not be overlooked that certain grave theologians have considered the case in which someone inflicts violence upon a cleric who has voluntarily stripped himself of all clerical insignia, and it seemed to these same theologians to be too harsh to judge such aggressors as incurring the most serious censure by the canon, namely, "Si quis suadente, causa 17, q. 4, quam inflixit Innocentius I," which is done at the entrance to the sanctuary, and also the perpetual dependence on his own bishop, so that it is considered as if he had committed apostasy, even though he has deserted the lowest rank of ecclesiastical service; concerning which matter, one can read what Saint Ambrose wrote in his letter 17, and Saint Jerome to Nepotian. Even in the imperial laws, vestiges of this rigor are found against clerics who desert; Novella Justiniani, 6, 7, column 223, chapter 15, law 15, concerning bishops and clerics. Indeed, lesser clerics were permitted to marry, but they were not permitted to abandon their clerical state; Council of Tribur, in chapter 3 concerning the life and honesty of clerics; Novella Leonis Philosophi. Furthermore, the aforementioned jurist expressed another proposition in the second formula of doubt, and he spoke of it thus: "While the principle remains firm that clerics must be celibate, this severe discipline, with which we are speaking, held that, even in the fourth century, they were deprived of all privileges of the forum, and thus did not lose the other clerical privileges; the Council of Rome under Nicholas, and in the Council of Rouen, these things remained under the disposition 1072. Such rigor, however, was not of common law, and after this epoch it ought to be inquired whether this other privilege was lost, perhaps because it was deemed expedient that clerics should lose their privileges if they were married." But the discipline in this matter varied with the diversity of times; in earlier times, the voluntary abandonment of the clerical state was considered, by itself, a grave fault, and was punished by excommunication; the Council of Chalcedon, canon 7, is a witness to this growing custom in the Church, as are also certain particular councils, such as the Council of Angers and the Council of Tours, as mentioned by Thomassini in *De veteris et novi disciplina par. 2, I, 1, chapter 11*. However, if the Church granted clerics freedom to return to the secular state, it nevertheless recognized the firmness, or at least the quality, of the oblation that each one had

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contracted through the first clerical consecration.

[*Latin ed. p. 447*]

XVIII. To prevent the tonsure, and to ensure that the honor due to that dignity would not be immediately diminished by the abuse of privileges, nor that such honor would serve to encourage abuse, he decreed that those clerics who, after three warnings, laid aside their clerical garb and took up arms, should lose the canonical privilege concerning those who used violence against such clerics; chapter [referring to a section] concerning sentences, excommunication, where it is written: "Such clerics, if, after being warned by their prelates three times, they refuse to lay down their military arms, should not enjoy any ecclesiastical assistance." Thus Clement III. And if, having laid aside their clerical garb, they committed crimes, they would seem to lose their clerical privilege, according to chapter [referring to a section] concerning Apostates, in which Alexander III declared: "Those who, by rejecting the clerical order and their garb, behave as laymen, if they are apprehended for crimes, should not be released from ecclesiastical censure." Furthermore, since some interpreters explain this text as if it concerned only the privilege of the forum, from this chapter, two subsequent provisions can be considered, which were made by Clement III, namely, chapter [referring to a section] "Cum non ab homine" and chapter [referring to a section] "Perpendimus de Sententia Excom." In both chapters, those who assault clerics who have abandoned their clerical garb, and who engage in enormities and crimes, are declared exempt from ecclesiastical censures. Hence, the opinion prevailed among canonists that a cleric who, having laid aside his clerical garb, engages in enormities, loses the canonical privilege without any prior warning. We find similar provisions in chapter [referring to a section] concerning Privileges, which is from Honorius III. However, there are two questions to be considered in order that the disposition of these chapters may be properly applied: the first is, what is meant by the words "enormous crime"? The second is, whether one enormous crime is sufficient for a cleric to be deprived of the canonical privilege. Farinacus, in question 8 concerning the Inquisition, and question 23 concerning Crimes and Penalties, deals with this matter, and among other things, teaches: "Although, according to civil law, enormities are those crimes which are committed with malice and cause great damage and harm to the rights of another," [reference to legal texts] "especially when the penalty of blood is imposed" [reference to legal texts], "according to canon law, enormities are those crimes in which, after the penalty has been imposed, dispensation is not usually granted." Moreover, if, in the Extr. de Jud. chapter "Cum illorum de Sententia Excom," among the enormous crimes, amputation of a limb, or even a wound with great effusion of blood, are mentioned, as the Glossa says there. An "enormous crime" is understood to be those crimes for which the Church, without

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preceding established forms in chapter "Cum non ab homine,"...

[*Latin ed. p. 448*]

448 Regarding offenses, he immediately delivers the delinquent cleric to the secular arm in Clairac; Farina, loc. cit. Fermasinus in chapter "Cum non ab homine de Iudiciis." But in the matter concerning which we are speaking, is there not one enormous offense? The majority of interpreters in chapter "Perpendimus et cap. Cum non ab homine de sententia Excom." teach that one is not sufficient. "One enormous offense" is not sufficient for me, but rather, "more are required; indeed, it is required that it be habitual and persevering." Andrew, Anthony of But, and also the Abbot in Can. "Perpendimus." Even more recent authors require such perseverance: "only if these crimes have been committed in such a way that they can be called habitual crimes of a minister." Thus, Covarruvias, *Practica*, chapter 32, numbers 2 and 3. Also, Sperelli, volume 2, decision 132, who furthermore observes: "one must not depart from this opinion." But furthermore, it must be inquired, when can someone be said to be persevering in enormous offenses in practice? To this question, the authors, among whom is Farina, loc. cit., and Castellan, *Consilia*, 5, respond: "To induce such perseverance, at least two, or rather three, enormous offenses are required." This rule is more in conformity with the common rule, by which a habit or frequency of actions is established, requiring a threefold repetition. With these things established, since in this type of case we must follow the safer opinion, which is more supported by the privilege of the canon, which was established for the honor of the entire clerical order, three offenses are necessary which, according to canon law, are considered enormous. But in the present case, we are dealing with homicide, which is an offense more enormous than wounds and insults, which are subject to the special Constitution of Clement XII, *In supremo Iustitiae solio*, issued in the year 1734, for clerics of the Pontifical jurisdiction. Therefore, the jurist, reviewing that constitution, was of the opinion that it did not deprive the cleric, who committed one homicide, of the privilege of the canon; although in this matter, he was very hesitant. The jurist, proceeding to the third formula of doubt, applied what he had previously discussed to the present case, concluding that, since there were only two "normative offenses," Livius, although he lost the privilege of the forum, did not seem to have lost the privilege of the canon. However, the Sacred Congregation, after discussing the case, considered that it was best to respond to the three previous doubts on November 16, 1843, that Livius enjoyed the privilege of the canon.

[*Latin ed. p. 449*]

449 FROM THE DECREES OF THE COUNCIL. REGARDING VICARS-CURATES AND THEIR REMOVAL. June 27, 1867, and January 11, 1868. Session 21, chapter 4, concerning the Compendium. In the cathedral

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church, the habitual care of souls resides with the Chapter, which exercises it through a perpetual Vicar. A certain generous Bishop, in the year 1808, in his will, appointed the cathedral Chapter as the heir to all of his property, and imposed upon it the obligation of establishing two chaplaincies, for the greater benefit of the church and the parish, enacting this law: The chaplains shall perform their office as vicars of the same cathedral. Furthermore, they shall assist the choir on all days of obligation. The chaplains shall be appointed by the Chapter with the approval of the Bishop and the parish priest for the time being, because it is my intention that the chaplains appointed should be good men and connected by familiarity. They shall be removable at the will of the Chapter. The sum for each chaplain shall be 500 livres annually. Although the chaplaincies were not canonically erected, the Chapter nevertheless did not fail to appoint chaplains, or vice-parishes, with an annual salary of 500 livres, to whom the Bishops have customarily granted the faculty of administering the sacraments with the attentive consent of the parish priest and the perpetual Vicar, and with the approval of the Ordinary (present and successors), as is customary with other vice-parishes in the diocese: and such faculty was always granted only verbally, without being recorded in writing. In the year 1860, when one of the two vice-parishes was absent, the Chapter appointed a priest named Charles, whom the Vicar Chapter (for the See was then without a pastor) verbally approved, granting him the necessary faculties with the approval of the Ordinary. In the fifth year in which Charles held this office of vice-parish, while suffering from a grave infirmity, the spiritual director of a certain orphanage in the same city, according to the prayers in *Ad Preces*, volume III, section XXXIII, 29.

[*Latin ed. p. 450*]

4-50 REGARDING THE REMOVAL OF VICARS-CURATES. The pious superiors of the place entrusted the matter to the Vicarius Capitularis, so that he might temporarily exercise the office of Director, while still retaining the office of vice-parish priest. Soon, the Parish Priest or perpetual Vicarius of the cathedral began to voice complaints against Charles, stating that he could no longer tolerate the assistance that the vice-parish priest had previously freely provided; despite these complaints, the Vicarius Capitularis did not fail to remind Charles to relinquish the office of vice-parish priest, and it was said that Charles himself had promised the same Vicarius Capitularis to do so. Then Charles appealed to the Chapter, from which he received a testimonial of praise for his properly exercised duties, and a declaration in which it was clearly asserted that nothing prevented Charles from retaining both offices, nor was there any basis for the complaints. However, with new complaints presented by the Parish Priest, the Vicarius Capitularis finally issued a decree by which he removed Charles from the

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office of vice-parish priest, and at the same time revoked all the faculties that had been granted to him for the office of vice-parish priest. This decree was also communicated to the Chapter so that it might proceed to a new appointment. More than several months passed after this decree was issued, without the Chapter choosing a new vice-parish priest; afterwards, the matter was brought before the Canon, who raised the question of whether the Vicarius Capitularis could remove a vice-parish priest without the consent of the Chapter; and finally, the same Vicarius Capitularis, due to the Chapter's inaction, proposed resolving the matter to the Sacred Congregation of the Council. The Sacred Congregation, as is customary, issued a decree regarding the handling of the case in writing, and ordered the Ordinary to warn the fiscal advocate of the Curia, as well as the Chapter, so that they might present their further rights before the Sacred Congregation, to the extent that they wished; and they appointed their advocate in the city, agreeing to the doubt which we place at the end. Synopsis of the debate. DEFENSE OF THE CHAPTER. — The crux of the question was whether the Vicarius Capitularis, or Ordinary, could, on his own authority, remove vice-parish priests. Therefore, the advocate for the Chapter argued the case as follows: Temporary or manual vicars can only be removed at the discretion of those who directly appoint them, whose service is immediate.

[*Latin ed. p. 451*]

VICARIANS REGARDING REMOVAL. 451. On this matter, Pirrhiog, Z. 1, title 23, section 1, § 2, wrote concerning temporary vicars: "A vicar is said to be that person who, by legitimate augmentation of the ecclesiastical person, is appointed to the place of another without institution, for a time, and is provided with a suitable portion, but in such a way that he can be removed sooner, either at the will of him by whom he was appointed, or otherwise." The author further cites the opinions of authorities, which state that in monasteries with united benefices, which are usually administered in the care of souls by removable vicars, the removal of these vicars pertains to the Abbot of the monastery, who appointed them; Barbosa, book 3, *Iuris universa*, chapter 6, number 65, and the authors cited by him; and also Pignatelli, volume 9, *Consilia*, 143, number 31. However, when the care of souls was in the hands of the Chapter, and indeed the founding charter granted the Chapter the right to appoint and remove assistant pastors, it was not permissible for the Ordinary to remove Charles without the consent of the Chapter. This is confirmed by the Resolution of the Sacred Congregation, as reported by Garzia in *De Beneficiis parochialibus*, part 1, chapter 1, number 94, where he writes: "It is declared by the Sacred Congregation in the city of Civitaten that the Chapter of the church of Civitaten has several parish benefices, which have been served from time immemorial by vicars who are removable at their will, according to the express faculty granted to them by the Apostolic See. These vicars,

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according to the declaration of the Sacred Congregation, cannot now be appointed except after prior examination and approval by the Bishop, and those so appointed can be removed at the will of the Chapter, and also by the Ordinary himself. The question is asked, whether the removal by the Bishop can be done without cause? The Congregation decided: The vicars themselves can be removed by the Chapter at the will of the Chapter; but by the Ordinary only for a legitimate and proven reason, for which they could be removed even if they were permanent." This Resolution was partially used by the Sacred Rota, as can be seen in Decree 53, § 2, before Peutinger, and in Decree 85, § 19, before the same, and it is also referred to by the authors, of whom the Reverend Bouix writes in *De Parocho Appellando*, part 1, chapter 1: "When they are temporary, or removable at the will, their appointment pertains equally to the authority of the Chapter, and their approval to the Bishop; but regarding their removal, the Doctors generally state that it can be done by the Chapter at its will, but by the Bishop only for a cause, for which they could be removed even if..."

[*Latin ed. p. 452*]

452. VICARS – REGARDING THEIR REMOVAL. "They could be deprived of their perpetual benefice." Furthermore, the Advocate added the author's expressed opinion from part 4, chapter 2, section 2, appendix I, section 4: "As for the Vicars, about whom we are speaking, who assist the resident Parish Priest and exercise the ministry, it does not seem possible for the Bishop to revoke them without cause, given the power of the Parish Priest to choose and appoint them, a power which we attribute to the Parish Priests; for otherwise, this would be a chimerical situation. For if, whenever a Parish Priest had taken someone as a Vicar, the Bishop could immediately remove him without any cause; and thus, the said power of the Parish Priest to nominate a Vicar would truly be meaningless. Nor can it be said that the Bishop can refuse approval, which is certainly necessary; for the Vicar, whom the Parish Priest has chosen, is due approval if there is no reasonable cause to deny it; therefore, if it were denied, and after repeated presentations by the Parish Priest, approval was refused without cause, recourse could be taken against the Bishop before a higher tribunal. Therefore, if it is admitted that the Parish Priest has a certain power to freely take on his own vicars, but that they must still be approved by the Bishop, it follows that the Bishop cannot remove them without cause. Indeed," the Advocate continued, "even if Charles had been nominated by the Ordinary, it would not have been permissible for him to remove him from office without a reasonable cause." To support this proposition, he cited, among others, Amostaz, *De Causis Piis*, in species I, chapter 1, number 36, where the author, referring to various opinions of authors regarding the causes for removing removable chaplains, states: "Finally, the power that is granted to someone, even if it is at will, is referred to a

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matter that is governed by natural reason and law... which the same must be observed in these removals of a benefice or ecclesiastical chaplaincy... therefore, a sufficient cause must necessarily be discussed from the part of the chaplain in order that he may be removed." To confirm this teaching, the Advocate cited the cases of the Nullius, or Farfa, chaplaincy of July 6, 1791, and the Roman suspension of March 28, 1801, specifically the cases of Messanen, discussed by the Sacred Congregation on March 18, 1854; and also the case of Urbinaten, acted upon by the Sacred Congregation of Bishops and Regulars on September 11, 1584, as cited by Pignatelli, volume 9, consultation 115, number 92, in which it was stated: "Officials of the Chapter and those serving the Church..."

[*Latin ed. p. 453*]

VICARS – REGARDING REMOVAL. 453 » Should not be removed by the Archbishop except with prior knowledge of the cause, nor for trivial reasons. » After these statements, the Advocate maintained that a reasonable cause for removing Charles could not be established due to incompatibility of offices: he demonstrated this by distinguishing between two types of incompatibility, namely, a legal incompatibility and a factual incompatibility. He argued that there was no legal incompatibility in the present case, since it was not a matter of Benefices, in which case the texts of chapter Ad haec 13, chapter Praeterea 14, and chapter De multa 28 regarding appointments would apply; but rather, it concerned only manual offices that are subject to revocation at the will of the superior, in which case the cited texts would not apply, as stated in the Holy Rota's decision 18, number 1 and following, before Coccino, where it was said: "In these temporal vicariates, which are established in benefices, . . . the provision of the aforementioned chapter De multa does not apply, nor does it cause incompatibility... The provision of the aforementioned chapter De multa does not apply to those offices and dignities which are not perpetual, nor does it confer a perpetual benefice, as the Doctors commonly state there."

With this established, the Advocate argued that there was also no factual incompatibility in the present case: he stated that the office of assistant priest does not entail any burden other than that which was imposed by the testator's words, as mentioned above; and that the office of spiritual director of the orphanage had been described by the same Chapter Vicar in granting Charles the authority to: "confer upon you, at our discretion, the necessary and appropriate powers to administer to these girls, including receiving their sacramental confessions, and to impart and explain the word of God to them in the usual manner." He maintained that these powers were not factually incompatible; moreover, he argued that the parish was not extensive, and a permanent vicar was present, and there were other assistant priests, nor did providing assistance to the choir entail incompatibility, since it required only a causal residence, and not a specific and

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continuous one, as stated by Cardinal de Luca in De Beneficiis, discussion 57, number 6, and in the Holy Rota's decision 179, number 2 and following, paragraph 2, item 1, Recent.

The Advocate further supported his argument with the fact that the Chapter Vicar himself, at the time he held the office of vicar, had exercised both offices for a decade, and that Charles had also exercised both offices, albeit for a short time, so that the praise given by the Chapter...

[*Latin ed. p. 454*]

454 VICARS AND CURATES REGARDING REMOVAL. He had presented: these and similar arguments were presented extensively by the Advocate to defend the rights of the Chapter. DEFENSE OF THE CHAPTER VICAR. — The Advocate observed that in these controversies, two questions usually arise: 1° whether those who have been deprived of their office have the right to deprive others; 2° what is required as a cause for deprivation, according to the nature of the office. Regarding the first point, he noted that the Chapter does indeed have the faculty to remove vice-parishes, but not the same faculty is granted to the Ordinary. And since the main basis for denying the existence of this faculty would be the Resolution of the Sacred Congregation, cited above on November 27, 1585, issued for the Chapter of Ciudad Rodrigo, in order to remove this obstacle, the Advocate asserted that this Resolution had not been properly extended to all cases, and he demonstrated this by observing: that the condition of the Chapter of Ciudad Rodrigo is entirely different from that of other churches: for the Popes of Rome have accumulated numerous privileges for that Chapter over the centuries; and furthermore, many Pontifical Constitutions have granted to that Chapter ordinary jurisdiction over many parishes, and the right to determine matrimonial causes, besides those of clerics who are subject to the Chapter. Therefore, in that case, since the Vicars, or the nomination, or the institution, were authorized by the Chapter, they could only be removed by the Chapter itself. The Ordinary, on the other hand, using the faculty granted by the Council of Trent to exempt persons, could not remove these vicars except for some legally established cause of crime. And in fact, the controversy over the numerous privileges of that Chapter has been debated before the Sacred Congregation in recent years and is still under consideration, so that the aforementioned Resolution cannot be applied universally. The Advocate continued, asserting that this Resolution has not been frequently cited in these controversies, and that a more correct opinion has been established; which he demonstrated by the Constitution *Firmandis*, issued by Benedict XIV on November 6, 1744, which in § 11 states: "However, if it should happen that either the Bishop" or a Regular Superior has judged that one of the aforementioned Parishes should be removed from the exercise of the cure of souls, and deprived of the same," since such Parishes cannot, without the prior approval of the Bishop, "ac-

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cess the care of souls, although by their own..."

[*Latin ed. p. 455*]

VICARS – CURATES REGARDING REMOVAL. 455. Those appointed by superiors, and who are subject to dismissal at their will, it was questioned whether the Bishop could proceed with such removals without the consent of the superior regular, and whether the causes for removal should be presented to him, and whether he should verify them; furthermore, whether the superior regular, becoming entitled to a similar removal and deprivation, should inquire about the consent of the Bishop, and whether he should make known and prove to him the reasons for his actions. Regarding this matter, the aforementioned Congregation of the Council decreed that such parish priests, whether by the Bishop or by the superior regular, can be removed from the care of souls by equal right, without requiring the consent of the other, nor should one reveal the reasons for his judgment to the other, much less should he be obligated to prove and verify them. This is approved and confirmed by us in all respects.

Then, the Orator observed that all of these things are even more applicable in the present matter, since it is not a question of a vicar properly so-called who is subject to removal, but of one who provides auxiliary service to the vicar parish priest, in whom parish priests also exercise authority, so that they can appoint and remove anyone; Zamboni in collect. V. Parochus 2 n. 4.

Regarding the assistant priests of parish priests, who are often removed at the will of others and often without knowledge of the cause, the Bishop must exercise his right, as stated in the decree of the City of Castellarne on August 26, 1628. Fagnanus in cap. Consultationibus n. 13 de Cleric. aegrot. S. Rota in Bononien. Parochialis of May 6, 1715, before Scotto §. Expediti. The Orator added that this power to remove vice-parish priests had not been denied to the Bishop by the testator's disposition, since the testator had not denied the Bishop this power; indeed, he could not have denied it; all the more so, since such an office can only be conferred by the delegation of the Ordinary, which is customarily granted provisionally from the diocese at the discretion of the Ordinary, and which delegation was not given in writing to Charles, but only by word of mouth.

Turning to another point concerning the causes for removal, the Orator observed that the rights of those who exercise jurisdiction not by reason of title, but by the words in which the ministry is conferred, must be determined by those words; in the present case, the ministry was conferred with the words: "at our pleasure and in the jurisdiction of our successors";

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therefore, the cause for removing him...

[*Latin ed. p. 456*]

456 VICARS AND CURATES REGARDING REMOVAL: Not necessarily. However, there was a reason, namely the incompatibility of both offices: it was shown that Charles was obligated to devote his time to the Orphanage on Saturdays and Sundays, and to perform other duties there each day, especially to celebrate Mass daily, according to the just laws and statutes of the place; in this case, the Orator cited a Resolution of the Sacred Congregation of Councils in Naples, dated April 14, 1725, concerning the following question: "Can Chaplains, of whom we are speaking (who, of course, were obligated to celebrate Mass themselves), obtain Curacies, or the economies of parish churches, or accept the duties of hearing the confessions of monks, or other duties incompatible with the celebration of Mass, by fulfilling the burden of the aforementioned Masses through substitutes?" The response was: negatively, that is, with regard to incompatibilities with the celebration of Mass by themselves. With these and other points noted in fact and in law, the question was to be resolved: "Whether the decree issued on December 12, 1865, by the Vicar Capitular in this case, should be upheld."

RESOLUTION. — The Sacred Congregation of Councils, having considered the matter on July 27, 1867, decided to respond affirmatively.

REASON: PROCEEDINGS. — After this Resolution, a new hearing was requested by the Chapter within a reasonable time, and was granted to him as usual: and again, the Orators debated on the same points of which we have given a summary. Furthermore, Charles, who had remained silent in the initial presentation of the case, presented his arguments before the Sacred Congregation, in which, among other things, he demonstrated that the aforementioned two offices were in no way incompatible, so that they could be exercised in practice without detriment to either office; that the revenues of the office of Director of the Orphanage were less than those of the office of vice-parish priest; and therefore, he concluded, it was entirely just that at least he, a poor Orator, should be given the option of retaining one or even both offices. Therefore, after the formula for questioning was proposed: "Whether one should stand by or recede from the decisions in this case," the Sacred Congregation decided on January 11, 1868, to respond: in accordance with the decisions; the condition being that the priest (Charles) should be given the option.

[*Latin ed. p. 457*]

REGARDING THE REMOVAL OF VICARS AND CUSTODIANS. From which [passages] you may gather the following: I. Pious foundations, which do not constitute ecclesiastical benefices, and which may have various forms, are to be governed by a twofold standard, namely, first, by the law of the foundation itself, and second, by common law, provided

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that it does not contradict the legitimate will of the founder. II. Therefore, in the present matter, as was granted to the chaplains and custodians in question, according to the explicit law of the founder, the power to remove them at will; likewise, such a power could not, according to common law, be denied to the Bishop or Ordinary. III. For, according to common law, those who are appointed to assist the parish priests, either by a pious endowment or from the parish stipend, can be removed by the Bishop, since they do not have a true and canonical institution, but assist in the care of souls at the Bishop's request. IV. By canonical equity and ecclesiastical order, it is not advisable that such chaplains, custodians, or assistants, who are thus removable, be removed without any cause: for removal without cause usually damages honor and disturbs order (1). V. In the present matter, there was no lack of some cause that would render the removal of Charles honorable, although the option of retaining either office seemed more equitable. (1) See Appendix X.

[*Latin ed. p. 458*]

458. OBSTACLES TO MARRIAGE. On March 30th, September 14th, 1867, and February 1st, 1868. Session 24, chapter 1, concerning the Compendium of Canon Law. Alphonsus, from a young age in Dender, was captivated by a girl named Rachel, and subsequently requested her hand in marriage from her parents. Alphonsus's mother opposed this marriage; however, the girl's parents allowed Alphonsus to visit her, while he, in the meantime, prepared the necessary furnishings for the future marriage. Alphonsus was obliged to be absent for almost a year due to his maritime voyages, but during this interval, he sent frequent love letters to the girl's parents, in which he confirmed the promise he had made, and Rachel, in turn, sent letters to him. Alphonsus had instructed the girl not to leave the house, not to linger alone at the door, not to converse with others, etc. Upon Alphonsus's return to his homeland, he was affected by bitterness, either because, as he himself claimed, the girl had not fulfilled the conditions attached to the promise, or because the girl's parents had attempted in some way to disparage Alphonsus's reputation. For these reasons, Alphonsus not only completely abandoned the girl's house, but also attempted to enter into a marriage with another woman. However, when announcements were made in the parish regarding the intention to contract marriage with this other woman, Rachel approached the episcopal court and presented an obstacle to the marriage, preventing him from celebrating the marriage with another woman. Alphonsus was therefore denied the ability to celebrate the marriage, and a process was completed in the court, and the judgment was issued in these words: "Having considered the tenor of the aforementioned letters, the testimonies of witnesses, and the admission of the plaintiff himself, it is established that a promise and a reciprocal promise to contract marriage in the future

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was made and repeatedly confirmed by both parties; furthermore, it does not appear that any resolutive condition was added to said promise, as alleged by the plaintiff (Alphonsus)."

[*Latin ed. p. 459*]

OBSTACLES TO THE MARRIAGE. 459 "But only certain stipulations (of Rachel), which were made by her and which she observed, and therefore no legitimate cause intervened for withdrawing from said betrothal and for violating it; considering these and other things, we declare and pronounce that permission to Alfonso to contract marriage with any other woman is to be denied, and therefore the mandate issued by this Holy See remains firm."

Alfonso, struck by this decision, appealed to the Most Holy Father. Hence, after prayers were transmitted to the Sacred Congregation, and the cause was presented, the following question was raised, which we place at the end:

A Synopsis of the Arguments.

The following few points were observed in this simple case: it was clearly established that Alfonso had repeatedly and firmly promised Rachel marriage, and this was evidenced both by letters and by witnesses; indeed, Alfonso himself did not deny this promise. But since Alfonso insisted that certain conditions were attached to the promise, and that Rachel had not observed them, it was noted that certain conditions had indeed been imposed by Alfonso, which were derived both from the tenor of the letters and from the testimony of witnesses; and one of these women testified as follows: "Alfonso imposed many conditions on her (Rachel), namely, that she should not stay in the entrance hall so that no opportunity would be given for her to take anyone's hand, nor should she stay at the door of the house, but at most in the window; nor should she leave the house except for the purpose of visiting a few friends. Rachel did not observe these agreements, because I saw her once at the door of the house, and others told me that they had seen her more than once at the same door." However, such conditions do not appear to be those that would dissolve the contract, but rather Alfonso's injunctions and vows. Furthermore, it appeared that Rachel had observed these same injunctions more or less, which never gave rise to any suspicion, nor could she be accused of any familiar intercourse or easy conversation with other men.

Although the parties argued only about the observance of these conditions, it was nevertheless observed that, from the records, Alfonso's promise appeared, but the woman's promise did not appear, and a profound silence was maintained concerning it; for although, from the

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tenor of the letters and from the statements of witnesses, it was clear that...

[*Latin ed. p. 460*]

460. OBSTACLES TO MATRIMONY. It is alleged that Rachel accepted a promise made to her, but nowhere is it written that she herself made a reciprocal promise; and this reciprocal promise is an essential condition for the validity of the marriage contract. However, since the parties only disputed the observance of these conditions, and the man did not raise this exception; and furthermore, the witnesses themselves did not doubt the true existence of the marriage, which they considered to have been valid; all these circumstances led to a strong presumption that Rachel had indeed made a reciprocal promise. Doubtful. "Whether the judgment of the court should be confirmed or overturned" in this case.

RESPONSE.— The Sacred Congregation, having knowledge of the case on March 8, 1867, decided to postpone the matter, and ordered that further evidence be presented on both sides regarding the reciprocal promise, including the letters from Rachel, which were to be presented in the Episcopal Chancery.

PROCEEDINGS IN THE CASE.— With this response in mind, Alphonsus did not produce the letters of Rachel, claiming that he had not kept them, first because of the profession of a sailor, which did not allow him to take care of such matters, and secondly because of the frivolous expressions of lovers, which he himself did not care much about; however, he stated that he could supplement the lack of the letters under oath, affirming that nothing written by Rachel in those letters constituted or confirmed a reciprocal promise; and that if those letters contained a reciprocal promise, Rachel herself would not have failed to request the Sacred Congregation to produce those letters. After these statements, Alphonsus requested that, since the obstacle to marriage had been removed, as Rachel had ceased to be the object of his hatred and with whom he could not possibly live, and even more so because Rachel did not pursue him out of love, nor was her honor in any way compromised, but rather out of envy, the Eminent Fathers would confirm the judgment of the court and grant him a dispensation. Rachel, on the other hand, remembers having sent a certain letter to Alphonsus; which, although it had been presented among Alphonsus's letters in the court, was absent from the documents sent to the Sacred Congregation. In this letter, which was not disputed by Alphonsus, although it was not stated how it came into Rachel's possession, it contained the following:

[*Latin ed. p. 461*]

OBSTACLES TO THE SACRAMENT OF MATRIMONY. 461. The matter contained within was as follows: it began with the words: "My beloved Alphonse, be mindful," and ended with the words: "I am your most loving

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and faithful bride, forever, Rachel." Having again presented the aforementioned question to the aforementioned Holy Congregation, on September 14, 1867, it was decided to respond: "Defer it." And the Bishop should strive for the reconciliation of the parties. Having received this mandate, the Bishop left nothing undone in order to reconcile the minds of the betrothed! But in vain, since both stubbornly resisted reconciliation: for the man was unwilling to take Rachel as his wife, and Rachel, insisting on her right, refused to renounce him. Finally, having again presented the aforementioned question to the Holy Congregation on February 1, 1868, it responded: "The judgment must be confirmed; and it is the opinion that, considering the circumstances, application should be made to the Most Holy Father for a dispensation from the impediment to the sacrament of matrimony, safeguarding, with Rachel's consent, an indemnity to be determined by the Ordinary." From WHICH YOU MAY GATHER: I. That a contract of betrothal does not exist unless there are mutual and firm promises on both sides. II. That betrothals, which are indeed valid, but contracted under a condition, are not to be confused with betrothals to which certain injunctions and prohibitions have been added. III. That prior betrothals, when the condition has not been fulfilled, are resolved into nothing; but that a second betrothal, even if injunctions have been neglected, does not become void, although the negligent betrothed may be worthy of reprehension; for the added agreements do not always affect the substance of the contracts. IV. That such negligence in agreements, when accompanied by a firm and serious disagreement of minds, can constitute a cause for dissolving the contract by Apostolic authority, but safeguarding the indemnity of either betrothed who has not relinquished their betrothal.

[*Latin ed. p. 462*]

462. OBSTACLES TO MARRIAGE. February 1, 1868. Session 24, chapter 1, concerning the Compendium of Canon Law. Iosepha, a citizen of the city of Melevita, and already advanced in years, afflicted with apoplexy, deprived of the use of her tongue, had been seriously ill for several weeks; however, with the passage of time, she recovered. Twenty months after the onset of her illness, she drew up a will, which is called a "nuncupative" will, and appointed her sister, Agnes, as her heir. After another twenty-nine months from the date of the will, at an age of nearly sixty, she contracted a marriage with Caietan, a Sicilian man, and, in view of the marriage, she gave him several substantial assets. This grieved Agnes, her sister; and although the customary announcements for the marriage had already been completed, and everything was prepared for the celebration of the marriage, she went to the episcopal curia and requested that the marriage be prevented from taking place, due to the weakness of her mind, by reason of which she was incapable of giving free consent. The episcopal curia, surprised by this new development, hesitated, considering whether

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Agnes deserved to be heard; however, it preferred to inquire judicially, lest the marriage be exposed to the danger of nullity if, perhaps, what Agnes asserted were true; therefore, the curia forbade the marriage. After the procedural acts were completed, since Agnes had not proven what she asserted, the Vicar General issued a judgment removing the impediment, based on the following reasoning: "No proof was produced to support the alleged mental weakness of Iosepha; indeed, from the sworn testimonies of the Doctors... it clearly appears that the same Iosepha, although having reached the age of fifty-nine years, possesses perfect mental integrity, so that she is entirely capable of giving consent in the matter in question, as was also determined by a personal examination of the same." After such a judgment, Agnes appealed to the Holy See; therefore, the case was preserved according to the usual procedures, and the matter remains in doubt, which we place at the end.

[*Latin ed. p. 463*]

OBSTACLES TO MARRIAGE. 463 OBSERVATIONS FROM OFFICE. — Having considered the Bishop's report and the proceedings documented, although the marriage appeared to be very imprudent, nevertheless, no canonical cause for preventing it was demonstrated. Therefore, the following observations were made solely from the perspective of office: The principal reason for requiring announcements prior to marriage is to reveal whether any impediments exist against the marriage; therefore, the Council of Trent, following in the footsteps of the Council of Lateranensis, celebrated under Innocentius III, decreed in session 24, chapter 1 concerning Marriages ("De Ref. Matr."), "that henceforth, before marriage is contracted, it must be publicly announced three times by the proper pastor to the contracting parties on three consecutive festive days, during the solemnities of the Mass." By virtue of this decree, not only was the possibility created, but also an obligation was imposed on all to reveal any impediments that they know to exist between the contracting parties. Indeed, considering the gravity of the matter, it is customary to admit even the suspicion of the existence of some impediment, so that even a single witness may be heard. However, this must be understood in such a way that anyone who opposes the marriage must be bound by the necessity of proving what they assert, lest a way be upon deceptions. But in the present case, Agnes not only did not prove the existence of an impediment, namely, the unsound mind of her sister, but on the contrary, the facts demonstrate the opposite. In addition to these circumstances, the decree of Innocentius III is recalled in chapter 5 of the Decretals, which reads: "Significante M. de Canula, it has been declared to our apostolate that N. had legitimately taken S., the mother of the aforementioned, as his wife; and although she is not able to respond to the wickedness of her actions with her own understanding, nevertheless, she wants money, so that she may desist from the accusation.

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Therefore, since we must not indulge the wickedness of men, we command that, if this is the case, you repel her from the accusation and impose silence upon her concerning this matter." From this chapter, the Canonists establish the principle: "He who is induced to accuse by money, or who demands money in order to desist from the accusation, must be rejected from the accusation."

[*Latin ed. p. 464*]

OBSTACLES TO MARRIAGE. 464. A doubt: "Whether the judgment of the Meleitan Curia should be confirmed or annulled in this case." RESOLUTION. — The Holy Congregation of the Council judged on February 1, 1868, that the judgment should be confirmed. FROM WHICH IT IS UNDERSTOOD: I. Although accusations against the validity of a marriage are easily received, those who are recognized to be motivated by greed should be repelled from such accusations. II. It is not possible, by law, to impede a marriage, even if it appears to be irregular. III. The accuser should be repelled who does not approve of his action against those entering into marriage. IV. In the present matter, Agnetem not only did not approve of his action, but indeed acted to the contrary.

SERVICES OF THE CHOIR REGARDING DISTRIBUTIONS AND VACATIONS. Summary of prayers. To the prayers of Philip II, King of the Spaniards, Pius V, Pope, by Apostolic Letters; Concerning the establishment: in the year 1563, he erected in the city of N. in the region of Americae, a diocesan seat and a cathedral chapter, that is, Dignities, Canonicates, and Benefices, and entrusted them to the first Bishop of that church, so that he might command the due execution of the Apostolic dispositions. This Bishop, enriched with these faculties, established five Dignities, ten Canonicates, six Portions, and as many half-Portions, and also decreed that the emoluments of the Canons should consist in daily distributions, and that the Canons should serve each year for eleven continuous or interspersed months. At present, only two Dignities remain, namely the Deanery and the Archdeaconry, four Canons, and two Chaplains.

[*Latin ed. p. 465*]

REGARDING SERVICES CONCERNING DISTRIBUTION AND VACANCIES. 465 The present Archbishop, observing that both of the aforementioned arrangements entailed serious inconveniences, requested the Sacred Congregation to reduce the daily distributions of the Chapter to one-third of the revenues or proceeds, according to the prescription of the Council of Trent, Session 21, chapter 3, and Session 22, chapter 4, concerning Reforms. He also requested that the time devoted to choral service be shortened due to the small number of Canons, that is, by reducing it to nine months, according to the provisions of the Council of Trent, Session 24, chapter 12, concerning Reforms, or at least to ten months.

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After further deliberations, it was decided that the income of the Canons, which formerly consisted of tithes and other offerings of the people, now consists of taxes to be paid to the Government, namely, 2400 Roman scudi for the Dean, 2050 for the Archdeacon, and 1600 for the other Canons. They are to be obligated to perform their divine office in the choir, and to sing the Conventual Mass daily, and to perform the other duties according to the statutes. Each is to be obligated daily to be present in the choir, except for the recitation of Prime. Although the income from the original decree consisted of daily distributions, there is no record that such a decree was ever put into effect, so that the daily distributions do not even seem to exist.

OBSERVATIONS CONCERNING THE OFFICE. – Regarding the distributions, the Constitution of Trent, in Session 21, chapter 3, concerning Reforms, is recalled, in which it is written: "Since benefices are established for the service of God and for the performance of ecclesiastical duties, so that in no way may the divine service be diminished, but that due reverence may be rendered to it in all things, the Holy Synod decrees that in cathedrals and collegiate churches, where there are no daily distributions, or where they are so meager that they are practically neglected, one-third of the fruits and all the revenues and offerings of dignities and canonries, portions, and offices, shall be set aside and converted into daily distributions, which shall be distributed in proportion among those holding dignities and those engaged in divine service, according to a division to be made by the Bishop, also as the delegate of the Apostolic See, in the very first deduction of the fruits; saving, however, the customs of those churches in which those who do not reside or do not serve receive nothing or less than one-third; and notwithstanding exemptions and other customs, even those of long standing." (Acts, vol. III, page XXXIII, 30).

[*Latin ed. p. 466*]

466 REGARDING THE DISTRIBUTION AND ABSENCES OF THE CHOIR: It was observed that this Tridentine constitution was in perfect agreement with the present situation, as evidenced by the resolutions presented, by which the Holy See had ordered that two parts of the revenues be considered as stipends, while the third part should be allocated for the distribution received by those present in the choir, and that those absent should lose their share proportionally, so that the amount lost by the absent would be added to the share of those present. Regarding the other part of the revenues, the Tridentine constitution was also recalled in Session 24, Canon 12, concerning Reforms, where the Fathers decreed: that those holding Dignities, Canonicates, Stipends, or Portions in the same cathedrals or collegiate churches, are not permitted, by virtue of any statute or custom, to be absent from those churches for more than three months in any year; saving, however, the constitutions of those churches

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which require a longer period of service. It was noted that the Holy See had generally refused requests for three-month absences for those bound by longer periods of service according to the capitular statutes or custom; Benedict XIV, in Decree 107, paragraph 81, and Fagnanus, in Chapter "Licet, de Praebendis," paragraph 51, nevertheless, there are examples in which, prompted by equity and due to special circumstances, the Holy See has, in some cases, made exceptions to this legal rule. In the present matter, it was argued that a small number of Canons, compared to the past, was a reason for obtaining this indulgence, as it is necessary, in order to maintain the dignity of divine worship, that greater diligence be required in the performance of duties, and that each Canon more frequently perform their weekly duties. Therefore, with the burden increasing, a certain reduction in work seems equitable for the proper relaxation of the mind. It was also noted that there was a reduction in revenues: although the revenues mentioned above may appear substantial at first glance, they should not be judged so, taking into account the time and place; for in those American regions, due to the lower value of gold and silver, a greater amount of money is required to acquire the necessary goods for a decent life. Finally, the Rescript in the case of Tarragona, dated February 18, 1764, was recalled, in which, when the Chapter of the city of Reus, which consisted of the Prior and six other Canons, requested permission for eight of them to be absent from the choir for two months, the Holy See...

[*Latin ed. p. 467*]

REGARDING THE SERVICES OF THE CHOIR WITH REGARD TO DISTRIBUTION AND VACATIONS. 467. The Congregation has responded: affirmatively, but only for the four Canons, with the usual stipulations: namely, that the Canons must attend and continuously serve during the entire time of Advent and Lent, on all days of feast and solemnity of the Nativity and Resurrection of Our Lord Jesus Christ, on Pentecost, on the Most Holy Body of Christ, throughout the entire octave thereof, and at other times approved by the Ordinary. RESPONSE. — The Holy Congregation, having considered the requests of the Archbishop, decided on August 24, 1867, to respond: With prior absolution regarding the past, it is permissible to establish the distribution of Masses according to the wishes of the Archbishop; and also to grant two months of vacation each year, with the usual stipulations: provided that the agreement is made with the Most Reverend [Archbishop].

FROM WHICH, THE FOLLOWING ARE GATHERED:

I. It should be considered an abuse that practice whereby Canons are bound to the choir and are unduly absent, and are not penalized by at least one-third of their income.

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II. Chapters, whose Canons receive pensions from the civil government, whether they are deprived of ecclesiastical revenues or not, are not exempt from the obligation of establishing the distribution of Masses according to the law of Trent, and they lose the benefits of their presence and the presence of others if they are unduly absent.

III. Although the Council of Trent permitted only three months of vacation for those bound to the choir, it forbade such vacations for those Canons who are bound to the choir by longer service, either by statutes or by custom.

IV. Therefore, with this Tridentine prohibition in place, an indulgence for any vacation can only be obtained from the Roman Pontiff: and such an indulgence is not granted except for equal reasons.

[*Latin ed. p. 468*]

468 INDULGENCES OF JUBILEE. On May 25, 1867. Summary of the case. John N., in the year 1825, was enrolled among the Canons of the cathedral church, and is now its Dean. In the year 1865, having completed forty years of choral service, he presented a petition to the Sacred Congregation, requesting an indulgence of jubilee. The Bishop was consulted, to report whether, having heard the matter, the Chapter would attest to the continued and laudable service of the same Canon, and whether account had been taken of the time during which the Orator may have been absent for the sake of studies. To these instructions, the Chapter transmitted a memorandum taken from the chapter book, containing a list of errors, the total number of which amounted to 2308, besides those which perhaps should have been noted from the month of May to the end of December of the year 1825, for which year the book of errors was not found. Furthermore, the Chapter stated that the same Canon, from September 15, 1837, until the entire month of February, 1851, a period of thirteen years and more than five months, had performed the office of Parish Economus in certain parishes, and for his absence from the choir, he had requested permission from the Holy See, until the year 1851, when he became the Parish Priest of the cathedral church; and that he still holds that office of Parish Priest. Moreover, the Chapter added that the same Canon, from the year 1833 to the year 1840, had performed the ministry of preaching without the permission of the Holy See in parishes of the same diocese; and that choral service in that church was usually performed every other week. The Bishop reported that these observations of the Chapter were in accordance with the truth; indeed, he noted that even the time during which the Orator was absent from the choir for the sake of studies had been included in the calculation of the forty years. With these matters presented to the Sacred Congregation, on December 10, 1865, the petitions were rejected by a Decree: Read. The Canon received the response of the Sacred Congregation with due submission and obedience; nevertheless, he

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repeated the petitions for the same reason, and, although he had attempted to respond to some of the observations, he...

[*Latin ed. p. 469*]

INDULGENCE OF JUBILEE. 469 Although the requested indulgence had been denied, the response was simply: "In decrees." However, perceiving that the rejection of the petition might give rise to a culpable suspicion of negligence in fulfilling his choral duties, he presented, in the previous year, certain testimonies to demonstrate that his failings had not stemmed from carelessness or negligence, but rather from his prompt obedience to the needs of the diocese; furthermore, noting that he had diligently fulfilled his duties since May 1865, he considered that the service rendered for two years compensated for any previous shortcomings; therefore, he again requested that the indulgence of jubilee be granted, taking into account also the persistent infirmity whose existence was confirmed by medical testimony. Addressing each of the objections raised, he stated: "He did not voluntarily assume the office of parish economist, but only out of obedience to the Bishop, who imposed that burden upon him due to the absence of other priests; and if he had not requested permission from the Holy See for this, it would not have been due to negligence or fault, but rather to ignorance of the necessity of obtaining the indulgence without the permission and instruction of the Ordinary; furthermore, while performing the duties of the economist, he consistently participated in the choir, provided that it did not interfere with his parochial duties; for the aforementioned places are not far from the city; finally, he has not used the indulgence for the purpose of study."

OBSERVATIONS FROM THE OFFICE. — From the office, the following observations were made: "It is to be noted that there is no mention of such an indulgence in the sacred canons, since nowhere in the law is there a text by which those who chant in the choir are granted this indulgence; nevertheless, due to the Church's benevolence, it has long been customary, as in civil service, so also in ecclesiastical service, for deserving individuals to enjoy benefits, who have diligently and laudably fulfilled choral service for a period of forty years; García de Benef, p. 3, ch. 2, § 1, no. 134, and S. C. throughout*; specifically, in the case of the Doubts regarding Jubilees, on September 24th and December 17th, 1718; Benedict XIV, de syn. I, 13, ch. 9, § 15, who gives this reason: 'Indeed, if daily and uninterrupted choral service is considered laborious and burdensome by all men, then it is certainly much more burdensome and troublesome with the passage of time.'"

[*Latin ed. p. 470*]

470. INDULGENCES OF JUBILATION. It is the case that, until one has seen the end of his service, no one, however long the course of years has been run with constancy and diligence in the service of the Church, is

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granted this [indulgence]. But since these indulgences are granted, not from justice, but from grace and equity, it is required that the service has been diligently and laudably performed; and the Holy Congregation demands these conditions, so that if they are not established, no consideration will be given, whether of advanced age or of habitual infirmity, as is noted in the *Motu Proprio*, law, part 1, title 2, number 13; in the *Jubilatio* of Fermo, September 13, 1862, through summary petitions. In these cases, even if the Holy Congregation, considering the reasons for these cases, repeatedly grants the indulgence to be absent from the choir, it nevertheless denies the indulgence of Jubilation itself. There has sometimes arisen a controversy as to whether the time during which a beneficiary was absent from the choir, having obtained due permission for the purpose of study, should also be counted towards the forty years. For in Chapter 5, *De Magistris*, Honorius III decreed that students in the theological faculty should, for a period of five years, receive from the Apostolic See permission to enjoy the revenues of prebends and benefices, notwithstanding any other custom. Because of this Constitution, some have argued that just as this time is considered useful for receiving the fruits of the benefice, so too it should be considered useful in the computation of the forty years for the sake of the indulgence of Jubilation. However, the Holy Congregation has taken a contrary view, as is stated in the *Jubilatio* of Nepeta, November 28, 1711, and in the cited *Dubia de Jubilationibus*: For the question was proposed: "Should Jubilation be granted to Canons and Beneficiaries who have served in churches for a period of forty years, although during that period of time they were absent with due permissions and indulgences, for the sake of study?" The resolution was: "No." It seems impossible that a Canon, of whom we are speaking, having obtained an indulgence, would not, at least on several occasions, be absent from the choir for the sake of study, since he attained the Canonry at the age of nineteen years. However, in the present matter, the period of time during which a Canon is absent for the purpose of preaching or the performance of other duties seems to be a greater obstacle: for it is customary to grant the grace of Jubilation to those who are absent for the sake of duties, with the permission of the Apostolic See.

[*Latin ed. p. 471*]

INDULGENCES OF JUBILEE. 471 However, a distinction must be made between a simple dispensation from attending the choir on certain days and hours, and another dispensation from the duties of the Benefice (1): For in the aforementioned case concerning Doubts regarding Indulgences, it was decided in favor of granting the Indulgence of Jubilee in the first case, but against it in the second. The question posed was: "Whether the Jubilee Indulgence should be granted to Canons and Beneficiaries who have served in churches for a period of 40 years, even if, during that period,

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they have been absent with due licenses and dispensations, either for the service of their own church, or for reasons for which they obtained dispensations to be absent from the church during their office." The decision was: affirmative, regarding those who were absent either for the service of their own church, or with dispensations for absence on certain days and hours; negative, however, regarding those who had absolute dispensations to be absent during their office. This resolution, however, seemed to deny the Indulgence of Jubilee to those who, without any prior dispensation, undertook some duty, neglecting the service of their own church, even if they performed it commendably. Regarding the Canon himself, the following observations were made: Although the Indulgence of Jubilee had been denied to him twice, it was noted that the petitioner had requested it, considering the compensation for his absences through diligent service in the choir, which exceeded the forty-year period. Indeed, the Holy Congregation has often extended the period of service beyond forty years due to interruptions in service within that period, as in the case of Piacenza, dated March 18, 1809, and elsewhere. This is confirmed by the following phrases used: "Let him petition with the absences compensated," or "Let him petition after one year, and with similar conditions," as in the case of Albingano, dated August 27, 1859, §. And in other cases. If, however, the Canon N. has not yet compensated for his absences, it remains to be seen whether he deserves a special dispensation due to his infirm health; for a physician had testified that he had contracted a certain illness due to the labors he had endured, and that he needed greater caution in the future. With these observations, and after prayers were presented to the Holy Congregation on May 25, 1867, a decision was issued: negative (2). (1) See the case that we cited in Volume I, entitled "Doubts regarding Indulgences," page 203 §. (2) The Holy Congregation, as we have said elsewhere, when dealing with petitions that it does not deem worthy of consideration, responds.

[*Latin ed. p. 472*]

472. INDULGENCES FOR SINGING. From the documents: I. The indulgence for singing in the choir is established by reason of equity as a reward for forty years of service. II. Those who have not diligently and laudably served in the choir should not be considered worthy of receiving this reward, even if they have not done so out of negligence or carelessness. III. Indeed, even if they have been granted an indulgence for absence, whether for study or for the sake of duties, this time of legitimate absence is not usually counted within the forty years of service, except for absences granted for the sake of duties, and that only for the days and hours involved. IV. It is essential to distinguish the indulgence for singing from other indulgences that are often granted for reasons of advanced age or infirmity of health: these latter are not based on the concept of a reward.

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COMMUTATION OF WILL. March 30, 1867. Summary of the case. Pope Pius, in his will of 1736, established certain provisions for his heir, his wife; among the goods he designated, he ordered that, after the death of the aforementioned wife, a simple, purely secular benefice should be established in the cathedral church, with the obligation imposed upon a chaplain, to be appointed by the heirs, to celebrate one Mass each week and to pay annually two and a half scudi to the sacristan of the aforementioned cathedral. After the wife's death, her heir was not concerned with establishing this simple secular benefice; subsequently, the heirs, having divided among themselves the portions of the inheritance, not only did not establish the benefice, but they did not even consider establishing it, being led by the following reasoning: when the matter was presented to them, as it were, "lectum," which is the most fitting word; in response, they said "negative," a word they often use when answering questions, not to reject prayers, but rather to indicate that the matter is being considered. In the present case, the use of this word seems to indicate that the speaker wished the petitioner to fully understand that his prayers would not be heard, and therefore to cease his petition.

[*Latin ed. p. 473*]

COMMUTATION OF WILL. 478. It was proposed, with the help of an Apostolic Brief, and subject to the fulfillment of obligations, to reduce [the endowment] so that it might be divided among the heirs according to their own will; indeed, hereditary property was to be divided among them at their discretion. The present heirs, who are of the same family, having been unable to find any certain information regarding the aforementioned Apostolic Brief, perhaps because (as they stated) the records of the episcopal chancery and of that city had been destroyed by fire during the French invasion in the year 1798, presented a petition to the Most Holy Father, requesting the conversion of the chaplaincy into a simple perpetual legacy, by which they would be bound only to fulfill the obligations imposed by the testator. For this purpose, they proposed to subject a certain property of their own to a mortgage as security for the legacy; moreover, they declared that they were entirely ignorant as to whether all the Masses had been celebrated in the past, or not; and therefore, they requested absolution from the Most Holy Father for such omissions. After hearing the Ordinary and the Chapter, all were moved to prayer in their favor, and furthermore, the Ordinary noted that the funds left by the first testator had been estimated to be sufficient for the establishment of a simple lay benefice (sc. 787); now, however, the petitioners were offering a sum of scudi 100 for 33 annual Masses, and a further sum of 20 scudi for 20 other Masses, which would provide a suitable supplement to the annual income. The aforementioned Apostolic Brief had been unsuccessfully sought. Regarding past omissions, they stated that, at times, some of the heirs had, according to their own

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conscience, satisfied this legacy to a large extent, while others had not; however, it was noted that these same heirs had also been burdened by adversity and poverty; now, however, each had acquired 1000 scudi from other inheritances.

OBSERVATIONS FROM THE OFFICE. — It was, of course, noted that in the present matter, it was not a question of a benefice in the strict sense; but rather of an obligation for a pious cause; indeed, the testator had been concerned about the salutary benefit of Masses offered for his soul, and had therefore designated certain goods; therefore, those same goods were not subject to those ecclesiastical laws to which benefices are subject. Since these goods had been divided among the heirs for a long period of time, and some had been alienated, it was difficult, and perhaps impossible, to recover them; therefore, it seemed appropriate to grant the petitioners' request, so that, with the approach of a new period of poverty...

[*Latin ed. p. 474*]

474. CONCERNING THE COMMUTATION OF OBLIGATIONS. It was stated that, due to circumstances, the heirs would entirely avoid fulfilling the legacy, whatever the means. However, it was observed that the sum of 100 scudi did not appear sufficient for the security of 33 Masses to be celebrated each year. Regarding absolution for past omissions, it was noted that not all heirs had neglected their duty; those who had neglected it had not done so through fraud or deceit, but rather through poverty that afflicted them, or through good faith. Considering these and other observations, petitions were presented to the Holy Congregation of the Council on March 30, 1867, and a rescript was issued: "After thirty Masses have been celebrated, and after a fund of at least two hundred and fifty scudi has been delivered for the complete fulfillment of the obligations according to the terms of the endowment, for the sake of absolution, remission, and commutation of obligations, let the promise be fulfilled with the Most Holy."

FROM WHICH IT CAN BE GATHERED:

I. If the testator, leaving a legacy of Masses, designated funds for a chaplain, it is not within the power of the heirs to receive income from those same funds, even though they provide sufficient funds for the Masses or the legacy.

II. Much less is it within their power to alienate those same funds; if they are alienated, the Bishop, as claimant, must recover them and place them in a safe place, for they are goods left for divine worship.

III. If the recovery of the funds proves impossible or difficult, this does not absolve the heirs from their obligation, but rather requires them to substitute other funds, equivalent to those alienated.

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IV. However, there may be circumstances in which the heirs may deserve some leniency from the Holy See, as in the present case.

[*Latin ed. p. 475*]

475. CONCERNING THE SUSPENSION AND RESTORATION OF MISSES. On August 24, 1867, the following matter was presented. In the year 1817, a simple benefice was united to the parish church of the town of N., which had been established in a certain church of Saint Peter; and this was done in order that the income of the parish church, which was entirely insufficient for the honest support of the parish priest, might be increased. This simple benefice entailed the obligation of celebrating two Masses each week in the aforementioned church, in addition to another Mass to be celebrated each week in the parish church itself. At the present time, due to taxes levied by the Government of Piedmont on the property of the church, the income of the parish priest has been so reduced that it scarcely, or not at all, suffices to cover the expenses. Therefore, the parish priest suspended the celebration of the two Masses in the church of Saint Peter; and then he requested that this suspension of the celebration, both for the past and for the future, be approved, as long as the present circumstances remained. According to custom, these requests were sent to the Bishop, so that he might express his opinion and describe the financial situation, both of the simple benefice and of the parish; and, after hearing those whose interests are involved, he was to transmit their opinion in writing to the Sacred Congregation. The Bishop, diligently fulfilling the duty assigned to him, among other things, responded: The petitioner's requests are in accordance with the truth; the income of the benefice is estimated at 63 scudi; the expenses, however, amount to approximately 62 scudi, so that the union of the benefice would be rendered futile. Furthermore, he reported that a sodality existing in the aforementioned church of Saint Peter entirely opposed the parish priest's request. The members of the sodality, in particular, opposed the request because they attributed a grave negligence to the parish priest regarding the tax levied on the benefice by the Government, which the parish priest had not, at the appropriate time, presented to the Government for description, and for which he had been subjected to penalties. Furthermore, the Bishop reported to the parish priest the deductions made from the revenues of the parish, according to which the income amounted to the sum of 25 scudi; while the expenses, including Masses for the people, amounted to...

[*Latin ed. p. 476*]

476 OF THE ABSOLUTION AND REDUCTION OF MASSES. Title 38, granted only with regard to taxes, and not for the maintenance of the church and parish buildings, nor for wax and oil, or other expenses of worship. The Bishop, expressing his opinion, says: "I judge that the

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Masses which have not been fulfilled up to the present time may be excused to the Parish Priest, with the imposition of a light burden, namely, the celebration of six Masses for the souls of the pious members of the Institute in any church within six months." A legitimate cause for the suspension of Masses clearly appears to be only the poverty of the parish, and the burdens imposed by the Benefice. However, the just claims of the Parish Priest are firmly rejected by the Governors of the Benefice, as they have been rejected up to now.

OBSERVATIONS FROM OFFICE. – The following were noted from office: Although caution must be exercised in the reduction of Masses, as both reason and the discipline of the Holy See clearly teach; nevertheless, having considered the circumstances, there is no doubt of a legitimate cause for the reduction. For the Fathers of Trent, in Session 21, chapter 5, and in Session 24, chapter 13, permitted such unions of Benefices only in order that the scarcity of revenues might be considered, and that the Rectors themselves might obtain honest support; but in the present case, the union of Benefices has proved fruitless, and the Parish Priest suffers from poverty, so that extraordinary remedies must be considered for him. It remains to be judged whether the members of the Mass association oppose the reduction, whether their dissent is reasonable or not, since, unless the burdens are reduced, the union of the Benefice would rather be a burden to the Parish Priest than a benefit.

RESPONSE. – The Sacred Congregation of the Council, after deliberation, decided on August 24, 1867, to respond as follows: Regarding the absolution concerning the past, according to the opinion of the Bishop; and regarding the future, for the granting of the reduction of all Masses, with the firm burden of celebrating one Mass each week in the church of St. Peter... for a period of five years; the agreement having been reached with the Most Reverend.

FROM WHICH IT IS UNDERSTOOD: Grave burdens violently imposed upon the Benefice provide a reason for obtaining a temporary reduction of Masses from the Apostolic See.

[*Latin ed. p. 477*]

477. ERECTION OF A CHAPLAINCY. September 14, 1867. Summary of the matter. A certain priest, in his will, chose two trustees to whom he made known his intentions, to be carried out after his death: after the priest's death, the trustees declared that it was the testator's will that, after the death of his sister, whom he had named as a usufructuary heir, a perpetual chaplaincy for daily Masses be established in the parish church of N., leaving the trustees the freedom to choose another church, whenever the parish priest of N., at the time, should request it, so that the chaplain might pay something for the use of the church, which this was not considered just, since this celebration of the Mass was for the benefit of the people. After the

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death of the usufructuary heir, the place became available for the erection of the chaplaincy, and the parish priest of N. was consulted as to whether he would agree to have the chaplaincy established in his church, according to the testator's wishes. The parish priest hesitated for a long time, until finally, with a letter to the Vicarius Generalis, he declared that he could not accept it, since it would be more of a detriment than a benefit to the parish, due to the provision of furnishings without any compensation. Then, another parish priest, M., offered his own church so that the pious endowment could be fulfilled in it, without any obligation regarding furnishings: and so, with a public instrument, the Vicarius Generalis, with authority, erected the chaplaincy in the parish church of M., expressly renouncing any provision for furnishings. After a period of nineteen years, the parish priest of N. sent a letter to the Sacred Congregation of the Council, requesting that the aforementioned erection not be declared valid, and that the aforementioned condition not be imposed; that if the condition were to be considered, the Masses would be reduced so that the furnishings could be compensated for, etc. After hearing the Bishop, certain observations, as is customary, were made ex officio. OBSERVATIONS MADE EX OFFICIO. — It was observed, in the present matter, that those things which are taught by the Doctors do not have a place.

[*Latin ed. p. 478*]

478. ERECTION OF A CHAPLAINCY. In the title concerning those things which are done by Prelates, when the Rector of a church bequeaths an inheritance or a legacy to the church, and in the present case, it is not a matter of a legacy purely and simply to the church, but under a condition: which condition, if not fulfilled by the Parish Priest, would, by the very will of the founder, have the effect of transferring the legacy. Moreover, the complaints of the Parish Priest were made very late: for a church has no right to any privilege, so that an extraordinary remedy, which would be necessary in the present case, should be employed to protect it. DECREE. — The Holy Congregation of the Council, after considering the presented petitions, on September 14, 1867, decided to respond as follows: "Let it be read, and let it be notified to the Ordinary." FROM THE PETITIONS: The will of the founders, whether expressly stated or through their trustees, must be scrupulously observed. FROM THE HOLY CONGREGATION OF RITES, OF THE CITY AND THE WHOLE WORLD. Forty-one Holy Bishops presented the following petition to the Most Holy Father: "Mindful of the pastoral solicitude with which we are bound to the flock entrusted to us, we confidently turn to the Apostolic See, seeking solace and assistance in our present difficulties." Indeed, it concerns the honor and worship of the Saints, of the Blessed Virgin Mary, and of her parents, Joachim and Anne, which we greatly desire to promote. In the present state of affairs, the bonds of Christian families

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are everywhere weakening; the fidelity and love of spouses are becoming rarer; the authority of parents is faltering; the obedience of children is diminishing.

[*Latin ed. p. 479*]

URBIS ET ORBIS. 479 The laws of the Christian marriage are almost forgotten: hence, very often, order, virtue, and peace are banished from families. Furthermore, history and experience testify that the religion of families, faith, and tranquility flourish wherever the worship and veneration of the Holy Virgin, Mother of God, are practiced. Therefore, since we gladly see this devotion of the faithful towards Saint Anne and her spouse growing more and more in France, we confidently expect sincere fruits of piety and the reformation of morals, especially among married couples. Moreover, the exaltation of Saint Anne seems to extend to the very Immaculate Virgin, since the womb of this most holy Mother, like a tabernacle, contained Mary, conceived without original sin, whom the Angels greeted. For this reason, prostrate at the feet of Your Beatitude, we humbly request that you deign to grant a double grace to the entire Christian world, or at least to our diocese. 1.° That the feasts of Saint Anne and Saint Joachim be celebrated henceforth with a double first class rite. Although no other modification needs to be made in either office, it is requested that another introit be substituted for the one assigned to the feast of Saint Anne, to be recited in votive Masses. 2.° That the names of both Saint Joachim and Saint Anne be added to the Litany of the Saints. Most Blessed Father, hear our prayers! May Your Holiness deign to pursue this with pious favor and bring it to a happy conclusion! May our prayer be received for the salvation of our flock, for the benefit of the entire Church, and for the greater glory of our Savior! These proposals were presented to the Most Holy Lord on December 20, 1867, and a decree was issued: "To be presented in the Ordinary Congregation of Holy Rites." These proposals were presented in the Ordinary Congregation on February 9, 1867: "Deferred, and placed on file, after hearing the opinion of two Theological Consultors, and to be presented in the Ordinary Congregation." A summary of the opinions of the Consultors: Two Theological Consultors, who had been invited to express their opinions, presented much learned documentation regarding the dignity of...

[*Latin ed. p. 480*]

480 OF THE CITY AND THE WORLD. Both Saints Joachim and Anne were renowned, and the bishops asserted that it was fitting that their cult should be promoted; however, the opinions of these consultants did not agree on this matter, and, considering the practice of the Holy See, it did not seem expedient to increase the solemnity of their cult throughout the entire Church as the praised prelates had desired. We shall report the opin-

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ions of both consultants through the most important points. One of the consultants spoke as follows: He recalled the teaching of St. Thomas in John, chapter 10, verses 5 and 6, where the Angelic Doctor wrote: "It is to be noted that all feasts are celebrated in the Church in commemoration of the divine benefits, Isaiah 53. I will remember the mercies of the Lord, etc. And in Psalm 117, after David has recounted many of the benefits of God, saying: Confitemini Domino quoniam bonus; he adds: Constituite diem solemnem in condensis, etc. We recall the divine benefits shown to us in three ways. Sometimes, as shown to us in the Head, namely, the Lord Jesus Christ. And thus we celebrate the Feast of the Nativity and the Resurrection, and the like. Sometimes, as shown to us in our members, that is, in the Saints, who are members of the Church. And this is fitting, because, as the Apostle said in 1 Corinthians 12, if one member glories, let all the members rejoice. And thus we celebrate the feasts of St. Peter and St. Paul, and of other saints. Sometimes, as shown to the entire Church, for example, in the ministry of the Sacraments, and in other benefits conferred upon the Church. And because the material house is like a sign of the Church of the faithful, and because all the sacraments of grace are dispensed in it, therefore, in memory of these benefits, we celebrate the Feast of the dedication of the Church. This feast is greater than that of any particular saint, just as the benefits conferred upon the entire Church, of which we make remembrance, exceed the benefit conferred upon a particular saint, which is commemorated in his feast. From this teaching, the consultant deduced that the foundation of the solemnity in the feasts of the saints rests first on the holiness which God has bestowed upon them; therefore, the greater the holiness, the greater the solemnity should be; secondly, on the benefits which accrue to the Church through them. This teaching is also taught by Gavantus, *Comm.*, preliminary remarks, no. 18.

[*Latin ed. p. 481*]

In this manner, the Consultor opened a path for himself, to consider the merits of the most holy Joachim and Anne before God, and the benefits concerning us. Regarding the merits and sanctity of these Saints, he reasoned as follows: The Fathers teach that when God ordains someone to an office, He adorns him with all virtues and perfections suitable to that office. Therefore, the more sublime the office, the more sublime the goods and virtues conferred by God. Since God, from eternity, decreed that Joachim and Anne would beget the Virgin, immaculate, in whom He would place the Holy of Holies, it must undoubtedly be held that He adorned them with a sublime sanctity; hence, St. John Damascene exclaims: "O, blessed Joachim and Anne, and truly immaculate! By the fruit of your womb you are recognized." As Christ says elsewhere: "You shall know them by their fruits." *Serm. 1 de Nativ. Deipar.* To this, the other Consultor added an argument drawn from a principle, which the Angelic Doctor, with custom-

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ary subtlety, presents in these words: "The more something approaches the principle in any genus, the more it participates in the effect of that principle." Thus, Dionysius says, concerning the celestial hierarchy, that the Angels, who are closer to God, participate more in the divine perfections than do men. Christ, however, is the principle of grace, authoritatively in regard to divinity, and instrumentally in regard to humanity. Hence, John 1 says: "Grace and truth came through Jesus Christ." *S. Thom. 3 p. q. 27 art. 5.* From this, the Consultor inferred: since Joachim and Anne, according to their human nature, were closer to Christ, the author of grace and sanctity, than any other Saints, they must have participated more in that grace. As for the benefits derived from them for the Church, the Consultor considered that they were made instruments of the most excellent mystery of the Incarnation and of our Redemption; hence, Damascene, in the first discourse on the Nativity of the most holy Virgin, numbers 1 and 11, says: "Let every creature rejoice and praise the most holy Anna, the mother." For she brought forth a treasure of good things to the world, which no power can take away... O, blessed Joachim and Anne! All creation is filled with joy because of you. Through you, the Creator received the most excellent of all gifts, namely, the most chaste Mother, who alone was worthy of the Creator." *Acta, tom. III, fase. XXXIII. 31.*

[*Latin ed. p. 482*]

482 OF THE CITY AND THE WORLD. Having considered these matters, and since the elevation of the rite ought to correspond to the exceptional sanctity [of the saints in question], the Consultor maintained that the elevation of the same [rite] was fitting. He confirmed this based on the reasoning of the Angelic Doctor: for if the feast of the dedication of a church is greater than the feast of some saint, because it is as if a sign of the Church of the faithful, and in it all the sacraments of grace are dispensed, then it is rightly fitting that the feast of Joachim and Anne, who brought forth the living temple of God, that is, He who is the head of the entire Church and the author of the sacraments, should be celebrated with equal solemnity, according to the testimony of the most illustrious St. Epiphanius, as Delaud observes, volume 1, page 442. Furthermore, the Consultor continued, the elevation of the rite is also suggested by the relationship that these saints have with other saints, namely, with the Most Blessed Mary: for "the glory of sons is their fathers," Proverbs 17. Also, to St. Joseph, whose feast Pope Clement X elevated to the rite of the second class, because he was the spouse of the Most Blessed Mary and the putative father of our Lord Jesus Christ; therefore, it is fitting that the feast of the parents of the same Most Blessed Mary should be celebrated with equal solemnity. Finally, this is fitting by reason of patronage, which, according to their special dignity, by their very nature, they exercise over the entire Church. Moreover, this concession would not be new, but only an extension of a concession already

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made. For the Holy Congregation of Rites, on the 7th of September, 1841, granted to the Regular Canons of the Third Order of St. Francis, that the feast of St. Joachim and St. Anne be celebrated throughout the Order with the rite of the second class. This pertains to the first petition of the prelates. Regarding the second petition, namely, the inclusion of the names of these same saints in the larger litanies, the same judgment seemed to him to be fitting, as it was given in a similar case concerning St. Joseph, since St. Joachim and St. Anne are related to Christ the Lord and the Most Blessed Mary in a similar manner. Pope Benedict XIV, while holding the office of Promoter of the Faith, having given an erudite opinion in favor of including the name of St. Joseph in the larger litanies, based his affirmative vote on the ancient veneration of St. Joseph in the Church, after dispelling some difficulties concerning his death before the law of the Gospel.

[*Latin ed. p. 483*]

URBIS ET ORBIS. 483 Following the same line of reasoning, the Consultor demonstrated that the cult of the most holy Joachim and Anne was exhibited by the entire Church, both in the East and in the West; and abundant evidence of this is provided by the Bollandists on March 20, §. 1, n. 2 and 3, and on July 26, §. 5, n. 16 and 45, and on March 20, §. 1, n. 6 and §. 7, r. 68. Another argument, which Lambertinius had presented in favor of the insertion of the name of Saint Joseph in the larger litanies, was that a feast day, even a military one, was observed for Saint Joachim, although the feast of Saint Joachim is now celebrated on Sunday within the Octave of the Assumption, in order to diminish the number of feast days, according to what is stated by Gavantus concerning the feasts of the saints, section 12, chapter 10. Regarding Saint Anne, it has been ascertained that her feast day is celebrated in at least some places as a feast of precept, obligating the hearing of the Holy Sacrifice. Furthermore, Lambertinius, in the case he was discussing, sought an argument from the fact that the name of Saint Joseph is found in the ancient litanies of the entire Church, and is still read in the litanies of the Fathers of the Order of Preachers, as well as of the Carmelites; but the Consultor noted that the name of Saint Anne is read in the litanies of those same Fathers, as can be seen from their own Breviaries. Afterwards, Lambertinius added: "The Litanies are nothing other than a catalogue of saints, who may be rightly and lawfully venerated and invoked, except for any prohibition by the Church; therefore, every saint, whose sanctity is certain according to the judgment of the Church, according to various methods of ascertaining this certainty; (for one method was before the time of Alexander III, another after)." Thus, he could be invoked in the Litanies... Benedict XIV, De Canon, I. 4, p. 2, c. 19, n. 25 and 26. Although, after the decree of Clement VIII, which expressly prohibited the addition of any saint to the litanies without the approval of the Sacred Congregation of Rites, the addition of the name of some saint,

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at least in particular litanies, has not been considered entirely unusual, and could be obtained from the Holy See, as shown by a certain fact narrated by Benedict XIV in the aforementioned place, n. 27; and in the litanies of the Fathers of the Order of Preachers, the Carmelites, and the Franciscans, the names of saints belonging to their own order are found, which are not read in the litanies of the Roman Breviary. With these observations, the Consultor believed that both petitions of the Bishops should be granted.

[*Latin ed. p. 484*]

484 OF THE CITY AND THE WORLD. THE VOTE OF ANOTHER CONSULTOR. — Here, another wise Consultor demonstrated the importance of invoking the help of God through the blessed Joachim and Anne, given the many and great evils that corrupt the bonds of marriage in this present age: it is fitting, according to the practice of the Church, that these heavenly figures be presented as an example and invoked, since they have excelled above all others in that virtue which we strive to attain. Furthermore, he showed, through the testimonies of many Saints and Fathers, that these same Saints, as spouses, had shone with such singular virtues that they merited the grace of conceiving the Mother of God; therefore, he concluded that it was most fitting and useful to increase the devotion to these same Saints. Nevertheless, regarding the elevation of the rite throughout the entire Church, he did not see sufficient reasons present by which the Holy See would come to decree it universally, although he considered that there were most sufficient reasons for the elevation of the rite in those dioceses where praised sacred prelates presided: indeed, the Holy See is accustomed to have before its eyes, when issuing these general decrees, some outstanding fact that benefits the entire Church; in this regard, the Consultor cited the example of the feasts of the Most Holy Rosary and of the Most Holy Name of Mary: or when the utility for the entire flock of the Lord has prompted the Holy See. Regarding the insertion of names, he affirmed that this was also a beautiful and desirable thing, in which there is no doubt that nothing is contrary to the piety of the faithful; nevertheless, such an insertion of these most venerable names seemed to him to be opposed by the liturgical discipline, which, having been established for many centuries, is not easily changed by the Holy See unless very serious reasons demand it: indeed, after the Bull of St. Pius V, nothing has been added to the Litany of the Saints except the name of St. Joseph: and to illustrate this, he cited a similar example that confirms this practice of the Holy See: namely, that nothing seemed more appropriate than to insert the names of St. Luke and St. Mark in the canon of the Mass, since in that canon are read the names of Saints of certainly lesser dignity; yet, the Holy See has never proceeded to do so, although suitable reasons seemed to advise it; especially regarding the insertion of the name of St. Mark, since the Republic of Venice has repeatedly requested it; and yet, it has always been denied, not for any other

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reason than to avoid innovations: which discipline...

[*Latin ed. p. 485*]

URBIS ET ORBIS. 485 ss. To ensure the integrity of the rites, those very things are most worthy of veneration: and this concerns the most venerable names, which are to be included in the Litanies, which are observed throughout the Catholic world with a uniform and unchanging rite, over the course of the centuries. After the opinions of the Consultors were presented to the Holy Congregation, and after mature discussion on February 29, 1868, the following response was given: Regarding the elevation of the rite, provision will be made in particular cases; but with regard to the Litanies, nothing is to be changed. From WHICH YOU MAY GATHER: I. Although the Holy See, in order to assist the piety of the faithful towards the Saints and to obtain suitable means for the circumstances of each place, may repeatedly elevate or extend the rites of the Saints (1), it does not usually come to a universal elevation of the rite, unless some real and universal reason strongly suggests it. II. Such a universal reason is not based solely on the dignity of the Saints, however great it may be, unless there is an external, real, and universal cause that suggests a universal extension and elevation (2). (1) With regard to the extension, the following Rescript is worthy of mention: "The Most Eminent and Reverend Lord Cardinal Paul Cullen, Archbishop of Dublin, and other Archbishops and Bishops of Ireland, present in Rome for the solemn canonization ceremonies concluded in the Vatican Temple, on the occasion of the 18th centenary of the glorious Apostles Peter and Paul shedding their blood for Christ, humbly requested of His Holiness Pope Pius IX, that the feasts of the Saints of Ireland, which are currently celebrated only in one or the other diocese, may be inscribed in the calendars of all the dioceses of that region; but only under a lesser double rite. His Holiness, after these requests were presented by the undersigned Substitute Secretary of the Congregation of Holy Rites, graciously accepted them and kindly agreed to grant them, provided that the days assigned for their celebration in each calendar are strictly observed according to the rubrics and decrees. Contrary to any and all things to the contrary." C. Epis. Port. et S. Ruf Card. PATBIZI S. C. Praefectus. In place of the seal, For the Reverend Father Dominic Bar Mini, Secretary, Joseph Ciccolini, Substitute. (2) I said that an external, real, and universal cause is required, which may be some particular event, which, however, benefits the entire Church, as are the examples indicated by the second Consultor; or even the piety of the faithful, which is aroused everywhere: we have a clear and recent example of this second cause in the Decree of Urbis et Orbis of August 23, 1850, which is in the new Ap-

[*Latin ed. p. 486*]

486. OF THE CITY AND THE WORLD. III. In the present case, this

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external reason presented by the Sacred Authorities has not, thus far, been deemed sufficient for a universal elevation of the rite. V. Furthermore, you should know that the Holy See finds it very difficult to admit even minor innovations in liturgical matters that have been firmly established by constant custom throughout the Church. V. Why do you not judge it expedient to have the illustrious names of Saints Joachim and Anne inserted in the Litanies of the Saints celebrated throughout the entire Church? (Î). In the Gardellian Collection, it is written: "Of the City and the World." "Since Pope Clement X allowed, in certain churches, the Feast of the Most Sacred Heart of Jesus to be celebrated with an Office and Mass, the people felt such a great stirring of devotion to remember the immense charity of this Divine Heart, that almost no diocese has failed to obtain from the Apostolic See the privilege of celebrating this Feast." The Bishops of Gallia, observing that this Feast was so pleasing to the hearts of the faithful and was celebrated with such concordant piety throughout the entire Catholic world, humbly presented their wishes on this matter to Our Most Holy Father Pope Pius IX, through His Eminence and Lord Cardinal Constantinus Patrizi, who was then serving as a legate *a latere* in Gallia. Seizing the opportunity, and with eager hearts, they gathered a large number of people in Paris, and, in the person of the Cardinal Legate, publicly and solemnly testified to their veneration for the Apostolic See, and professed their intimate and complete adherence to the Roman Pontiff as the center of Catholic unity and the Vicar of Jesus Christ on earth, and, with fervent prayers, requested that he extend the Feast of the Most Sacred Heart of Jesus to the entire Church. "When the most devoted Bishops of Gallia, having returned to Rome, presented these petitions to Our Holy Father, the same Cardinal Prefect of the Sacred Roman College, the aforementioned, it pleased His Holiness to receive them with kindness, and, desiring to offer new incentives to the faithful to love, to venerate, to embrace the wounded Heart of He who loved us and washed us from our sins in His blood, He ordered that the Office of the Most Sacred Heart of Jesus, approved by the Sacred Roman College, for the Kingdom of Poland and the Clergy of the City, be celebrated annually throughout the entire Church, with a double Mass, on the sixth day after the Octave of the Most Holy Body of Christ, observing the rubrics, and maintaining the established customs, with the exception of churches that have the privilege of celebrating this Feast on a different day, or with a different Office, according to the special Indults granted by the Apostolic See up to this point. Notwithstanding any contrary provisions. On August 23, 1856." (t) The Sacred Congregation of Sacred Rites did not permit the invocation of titular names in the Litanies, as was explained in the following doubt presented in Parma on May 6, 1857, with these words: "Is it permissible, in churches, during the entrance procession (on the Feast of St. Mark and during Rogation days), to invoke, during the pious Litanies of the Saints, the names of titular saints, even if these are not present in the

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same Litany?" To this, the Sacred Congregation responded: "No."

[*Latin ed. p. 487*]

487 Concerning the Beatification and Canonization of the Venerable Servant of God, Father Aegidius Maria of Saint Joseph, a Lay Brother of the Order of Friars Minor Observant of the Strict Observance of Saint Peter of Alcantara, of the Province of Lecce. Regarding the Doubt as to whether there is evidence of the theological virtues of Faith, Hope, and Charity in God and in neighbor, and also of the cardinal virtues of Prudence, Justice, Fortitude, and Temperance, and their attached qualities, in a heroic degree, in the case and with the effects of which we are speaking? DECREE. "The Venerable Aegidius Maria of Saint Joseph was a simple, upright, and God-fearing man. Born of humble origins in the illustrious city of Taranto, from his earliest years, he was favored by the grace of God, and he led a pure and unblemished youth. Subsequently, despising the vanities of the world, he embraced the Institute of the Seraphic Order among the stricter Alcantaran brethren. There, living in simplicity and innocence of heart, he so diligently followed Christ crucified that he merited, from Almighty God, the grace to work prodigies and miracles, worthy of the pre-eminence of these virtues. And since this servant of God frequently resided in the city of Naples, where at that time, due to the subversion of public affairs, wickedness abounded, and many people, imbued with the false doctrines of philosophers, had defected from the Catholic faith, therefore, God chose this contemptible and infirm servant to confound the wise and to destroy the mighty. Aegidius reached the very end of his old age, until, laboring under a grievous illness, strengthened by the Sacraments, and longing for the heavenly homeland, he peacefully fell asleep in the embrace of God on the seventh of the Kalends of March, in the year 1800. And since the fame of this man, while he lived on earth, spread widely through the splendor of his virtues and the multitude of signs, and has been recounted to this day by parents to their children and grandchildren, therefore, the proceedings, established by the Ordinary authority in the cities of Naples and Ta-

[*Latin ed. p. 488*]

488 Naples. To those who had been investigated, the Supreme Pontiff Gregory XVI, may he rest in peace, signed the Commission for the Introduction of the Cause with his own hand in the year 1844. Subsequently, letters were issued by the Congregation of Sacred Rites, so that the processual acts would be completed with Apostolic authority in both cities, namely Naples and Taranto. After these matters had been brought to a conclusion, and all that which must be observed in this supreme court of judgment had been preserved, the three virtues of this servant of God were subjected to examination. The first was in the Preparatory Congregation, which took place on the seventh of the Ides of May in the year 1865, in the halls of the

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Most Reverend Cardinal Alexander Barnabò, the promoter of the cause. The second was in the Preparatory Congregation held in the Apostolic Palace at the Vatican on the fifth of the Calends of December in the year 1865. The third was finally in the general assemblies, which were held in the same Apostolic Palace at the Vatican before the Most Holy Lord, our Pope Pius IX, on the thirteenth of the Calends of December in the year 1867. In these most solemn assemblies, the same Most Reverend Cardinal Alexander Barnabò proposed the following question: "Does it pertain to the theological virtues of Faith, Hope, and Charity in God and in our neighbor, and also to the cardinal virtues of Prudence, Justice, Fortitude, and Temperance, and to those things which are joined to them, to be present in a heroic degree, in the case and with the effect of which we are speaking?" And all the Most Reverend Cardinals who preside over the Sacred Rites and the Consultors, in order, expressed their opinion. After these had been heard, the Most Holy Lord immediately revealed his mind, and he instructed those present to offer prayers with him in the meantime, in order to obtain the illumination of the Holy Spirit. Finally, on that day, which was the second day after the Sunday of Quinquagesima, he declared that he would pronounce his judgment. Therefore, having performed the sacred rites in the private chapel of the Vatican Palace, he went to the church, offered the sacrifice to the Most Holy Name of Jesus, and there, after the most august and most holy Eucharist had been exposed for the veneration of the faithful with solemn worship, he approached the altar, and with him were the Most Reverend Cardinal Constantino Patrizi, Bishop of Oporto and Santa Rufina, the Prefect of the Congregation of Sacred Rites, and the Most Reverend Cardinal Alexander Barnabò, the promoter of the cause, and also the Reverend Father Peter Minetti, the promoter of the Holy Faith, and myself, the undersigned secretary, and with them present, he duly decreed: It is established that the theological virtues of Faith...

[*Latin ed. p. 489*]

NAPLES. 4-89 "Regarding hope and charity towards God and our neighbor, and concerning the cardinal virtues of prudence, justice, fortitude, and temperance, and their associated virtues, the following pertains to the servants of God, Giles and Mary, of the Society of Saint Joseph, who have attained the heroic degree in this matter, and concerning the effect of which we are speaking." This decree was ordered to be published and recorded in the Acts of the Congregation of Sacred Rites on the first day of March in the year 1867. C. The Bishop of Porto and Santa Rufina, Cardinal PATRIZI, of the Holy Roman Church, Prefect. In place of the Sign, D. Bartolini, of the Holy Roman Church, Secretary. FROM THE MOST REVEREND BISHOPS AND REGULARS, CONCERNING THE PIOUS SOCIETY NAMED "MUTUAL AID." On March 6, 1868. Summary of the facts. In the Italian diocese, a certain pious ecclesiastical society was established, which, being

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named "Mutual Aid," aims to provide temporal and spiritual assistance to the clergy who are infirm. This society is composed of members of three ranks, namely, members who contribute only, Prefects, and a President. Each member, in addition to a certain contribution paid upon entering the society, contributes 20 obols each month. The Prefects are those who are established in each diocese and town to collect the contributions. The President and Protector of the society is the Ordinary. The entire society is accustomed to holding a general meeting each year, during the second week of August, on the established day in the diocesan calendar; furthermore, it holds extraordinary meetings whenever necessary.

[*Latin ed. p. 490*]

490 CONCERNING THE PIOUS SOCIETY, MUTUAL AID. NOW, according to the judgment of the Bishop. Whatever is decided by these general assemblies does not have the force of law, unless the approval of the President is added. But in this society, there is also a certain commission, called the directing and administrative commission, which is composed of the Director, the Vice-Director, the Secretary, the Prefect, and visitors of the sick, all of whom are elected in the general assemblies. These individuals hold a special meeting each month, and they examine the requests of the members and manage the administration. According to the statutes of the society, approved by the Bishop in article 15, this commission was granted this power, namely, to prudently interpret the statutes in unforeseen circumstances and only provisionally, so that the general assembly may be made more certain and may obtain approval; once obtained, the interpretation will have the force of law. This pious society underwent some disturbance in the year 1864: for, on October 12th, a general assembly was held with the Vicar Capitular and the President, and some members requested that a new commission be created to reform certain articles, especially that one in which it was stipulated: that in the event of the dissolution of the society, the Ordinary of the time, the Cathedral Prefect, and the Prior of the Parishes, would receive possession of all the revenues, and would appoint an administrator, distributing all the revenues to the senior and poorer priests who were infirm. These members were moved to make these requests for information, so that the civil government would not seize hold of the revenues of the society; and indeed, the civil magistrate requested three times that clarification be given regarding the nature and status of the same society. Consequently, due to this disturbance, the members were less diligent in paying their contributions. However, on March 20, 1866, the commission decided that contributions should no longer be collected by each Prefect individually, but should be delivered to the general treasurer; it also established a period of one year in which suspended contributions should be paid, so that, if this established time passed, the members would be removed from the society's records without further warning. This ar-

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rangement was the cause of disagreement; however, after it was ordered to be carried out, another arrangement followed, according to which the members who remained, requesting a new restoration of the society with more suitable conditions, would have their contributions returned to them in the meantime; the commission approved of this request, returning to these members their due portions.

[*Latin ed. p. 491*]

CONCERNING THE PIOUS SOCIETY, FURTHERMORE, NUNC. 491. Having received complaints from members who had been removed from the list by the Vicarius Capitularis, he instructed the Commission to provide an account of all its actions. However, the Commission appealed to the Sacred Congregation of Bishops and Regulars, arguing that it had acted lawfully in all respects, especially in accordance with Article 15 mentioned above. Therefore, with due consideration, the following question was proposed: "Whether and how provision should be made in this case."

RESOLUTION. – The Sacred Congregation of Bishops and Regulars, having considered the matter on March 6, 1868, decided as follows: "Affirmatively, and it is to be declared that the actions taken by the Commission are not to be upheld; and the Ordinary should, in this instance, proceed provisionally with the nomination of a new Commission for the year; and this should be communicated to the Vicarius Capitularis for his information."

FROM THE DOCUMENTS:

I. Pious societies are to be governed according to the statutes of each.

II. If disagreements arise in these pious societies, they are to be resolved by the Ordinary (1).

III. In the present case, the Commission exceeded the limits of its authority as defined by the statutes.

CONCERNING THE DECREE OF THE BISHOP.

February 7, 1868.

Summary of the Case.

In the city of N., in France, there are two parish churches, Parish A and Parish B. The former has 4500 parishioners; the latter has 1500. This second parish, which is located in the center of the city, possesses an ancient image of the Blessed Virgin Mary, which the faithful have venerated with special devotion from ancient times. It also has (1) In the present pious society, the Ordinary himself was the president; but even if he had not been, he would have been obligated by his own right to intervene in the matter. Regarding

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this, see the Appendix that we wrote in Volume II, page 369.

[*Latin ed. p. 492*]

492 CONCERNING A BISHOP'S DECREE. A pious congregation of young women. Likewise, in the parish of A, there exists a pious congregation of women, and another of young people. The members of these three congregations belonged to one parish or the other, without any distinction; but when disagreements arose between the parishioners of both parishes, the Bishop, with the counsel of a prudent man, in order to quell them, issued the following decree on July 15, 1855: "Each parish shall have its own distinct and separate administration and order; the congregations shall be suppressed; those same congregations, which the pastors may wish to re-establish, shall not be composed, except of those persons who reside in each of the parishes." The pastor of A immediately obeyed; not so the pastor of B, and thus the disagreements were inflamed further. Meanwhile, the same pastor B died, and another succeeded him, who did not act differently: and thus, little by little, the initial spark grew into a fire. This new pastor of B petitioned the Sacred Congregation of Bishops and Regulars against the Bishop's decree; therefore, the following question was raised, which we present below. It was established by fact that in France, at least in several dioceses, it had been the practice that such congregations, which are commonly established in any parish, are not composed except of the parishioners of that parish; and that such pious congregations are of this kind, which cannot be compared with ecclesiastical sodalities which freely admit members without distinction of parishes; but that there are certain pious congregations, which are established in order that the pastor, as their superior, may direct them, so that he may more suitably promote the piety and practice of virtue among his parishioners. The Question: "Whether and how provision should be made in this case." ANSWER. — The Sacred Congregation decided on February 7, 1868, to respond: "The Decree of July 15, 1855, shall be observed; and furthermore. From which it is gathered: That pious congregations, which are established to foster the piety of the faithful in a useful manner, ought to be subject to the prudent dispositions of the Bishops."

[*Latin ed. p. 493*]

493. OF MANUMISSION. August 2, 1867. Summary of the case. The family N. possesses a vineyard which is burdened with the obligation of paying annually a sum of 4 scudi, 80 dinari, in favor of the lay chaplaincy of B., under the patronage of a certain noble family. However, it was unknown which portion of the vineyard was subject to this obligation, and since other obligations already existed which had previously burdened the same vineyard, and by which it had been freed, provided certain condi-

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tions were met; furthermore, a railway line passed through the vineyard, which raised further questions. Therefore, it was requested that, upon payment of the sum of 160 scudi for the railway, the vineyard be freed from this obligation. The request was presented to the Sacred Congregation of Bishops and Regulars to obtain permission. The matter was referred to the Ordinary for information and to hear the opinions of those concerned. The Ordinary, therefore, consulted the patron, who completely refused the request, and among other reasons, argued that the family N. could not demand manumission, and that they could at most demand that it be determined which portion of the vineyard was subject to the obligation; that they were obligated to pay a certain sum for the use of the land for the railway, according to the nature of the emphyteutic contract; that it would be better for the chaplaincy if this obligation were maintained, since if it had been redeemed previously, the income might already have been lost; and that if, nevertheless, the manumission of the obligation were granted, he would not be able to redeem it unless he paid more than 200 scudi, considering 2 scudi for each hundred. On the contrary, the family N. argued that they were not requesting this out of justice, but out of equity, invoking the principle: "What does not harm you, and benefits another, should be done." Moreover, they argued that the manumission of this obligation would not only not harm the chaplaincy, but would greatly benefit it, and would avoid disputes in determining which portion of the vineyard was subject to the obligation.

OBSERVATIONS FROM THE OFFICE. — It was noted, by order, that although the Council of Trent prohibited patrons from...

[*Latin ed. p. 494*]

494. CONVERSIONES. In administratione rerum, conversiones sunt per se beneficiales; tamen, Autores docent se posse intervenire in contractibus, qui sibi nocivi viderentur; ita tamen, pondus oppositionis eorum debet esse aequale rationibus quae adducuntur. Conversio non est aliud quam venditio directi dominii, si de fundo emphyteutico agitur, vel iuris in re, si de simplici onere fundo imposito agitur. Ad eam perficiendam, si de bonis ecclesiasticis agitur, necessarium est Apostolicum Beneplacitum, quod non conceditur nisi utilitas evidens aut necessitas pateat. Quod si praesens Cappellania sit laicalis, ita ut bona eiusdem laicalia appellanda sint, necessaria pariter est facultas S. Congregationis ut affrancatio seu proposita alienatio legitime fiat; namque etiam quoad bona laicalis Cappellaniae, cum eorum dominium non resideat nec in Cappellano, qui est potius usufructuario, nec in Patrono, qui nec administrator est, necessaria est facultas S. Congregationis, quae tutrix universalis est piorum legatorum. Proindeque totam quaestionem in praesentia reduci, an in dicta affrancatione facienda adsit necessitas vel evidens utilitas Cappellaniae. Cum autem non agatur de necessaria affrancatione, sed de voluntaria, iudicio Eorum Patrum esse

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remissum, qua proportione ea sit facienda. Quoad laudemia vero solvenda, recolabatur principium: sine emphyteusi, laudemium non debetur. Et ideo, in incumbere Cappellano onus ostendendi titulum emphyteuticum, quem tamen titulum incertum in facto fuisse ab anno 1591.

Dubium: "An et quomodo annuendum sit petitae affrancationi in casu."

RESPONSIO. — S. Congregatio Episcoporum et Regularium, re cognita die 2 Augusti 1867, respondere censuit: Affirmative, aucto pretio ad scutata biscentum, ad effectum ea investiendi; et ad mentem. Mens S. Congregationis fuit, ut Ordinarius haberet rationem augmenti reddituum, ut Cappellanus in onera Cappellaniae inhaerentia implenda diligentius incumberet, adiecta clausula, et amplius.

[*Latin ed. p. 495*]

EMANCIPATION. 49S From which things you may gather: I. Although Patrons may not interfere in the administration of the affairs of the Benefice: it is fitting that they be heard concerning its alienation. II. It makes no difference whether the matter concerns ecclesiastical goods, or rather, lay goods, which having once been relinquished to the Church, are for a pious cause. III. The dissent of such Patrons is not to be considered, if canonical reasons appear to favor the alienation to be made. IV. Finally, it is expedient for the Church that those canons be suitably redeemed, whose juridical nature is unknown, and that those parts of the *fundi* which are burdened by a canon to the benefit of the Church, be ascertained.

AUDIENCE OF THE MOST HOLY. GENERAL GRANT OF INDULGENCES TO THE FOLLOWING PRAYER. On the 29th of February, 1868.

SUPPLICATING PRAYERS.

MOST BLESSED FATHER – "Since many pious souls have proposed to venerate the Most Holy Heart of Our Lord Jesus Christ in the Sacrament with special devotion, and to offer more fervent acts of worship to Him, especially where He is not honored or cherished with due love and care, or even where He is neglected, and they are accustomed to accomplish this through a prayer – "Loué, adoré, aimé et remercié soit à tous les moments le Cœur Eucharistique de Jésus dans tous les tabernacles du monde, jusqu'à la consommation des siècles. Ainsi soit-il" – they earnestly desire that the prayer (1) be rendered in Latin as follows: "Laudatum, adoratum, amatum cum grati animi affectu sit Eucharisticum Cor Iesu singulis temporis momentis in omnibus Orbis tabernaculis usque ad consummationem saeculorum. Amen."

[*Latin ed. p. 496*]

496. A GENERAL DECREE OF INDULGENCES. In order that this [prayer] may be more easily spread and more frequently used by the

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faithful, and that, in some way, the neglect of others may be remedied, We grant, through Your Holiness, a certain indulgence. Those who, with sincere desire, support this undertaking are: Francis Alexander Boullet de la Bouillerie, Bishop of Garcassone; Gaspar Mermillód, Bishop of Hebron, auxiliary of Geneva; and Henry Amanton, Archbishop of Theodosiopolis; these men earnestly implore Your Holiness to deign to favor these pious intentions. "February 29, 1868. After the Postulation had graciously approved, We grant to the Christian faithful who, at least with a contrite heart, shall recite the aforementioned prayer, an indulgence of one hundred days, once a day; which, moreover, may be applied for the benefit of souls suffering in Purgatory, contrary to nothing whatsoever." PIUS PP. IX. "A certified copy of this decree was presented in the Secretariat of Holy Indulgences, to be kept there, according to the decree of April 14, 1868." Ph. Can. Cossa, Substitute. FROM THE CONSISTORY ACTS. THE CREATION OF THE MOST ILLUSTRIOUS CARDINALS OF THE HOLY ROMAN CHURCH. On March 3rd and 16th, 1868, Our Most Holy Lord, Pope Pius IX, held a secret Consistory in the Vatican on the morning of March 13th, in which the Most Eminent and Reverend Cardinal De Reisach, as Chamberlain of the Sacred College, presented "to the Most Holy Father the purse, which the same Pontiff handed over to the Most Eminent and Reverend Cardinal Barnabò, who succeeded him in this office. Then the Most Eminent and Reverend Cardinal Antonelli requested the Diaconate of Saint Mary in Via Lata, retaining the title of commendator of the Diaconate of Saint Agatha ad Suburram.

[*Latin ed. p. 497*]

EMINENT. CREATION OF CARDINALS OF THE HOLY ROMAN CHURCH. 497 Finally, the Most Holy Father, after a brief address, created the following Cardinals of the Order of Presbyters: His Excellency, Prince Lucian Bonaparte, Apostolic Protonotary, born in Romae on the fifteenth of November in the year 1828. His Excellency, Innocent Ferrieri, Archbishop of Siden, Apostolic Nuncio to the Most Faithful King, born in Fani on the fourteenth of September in the year 1800. His Excellency, Eustachius Gonella, Archbishop of Viterbo and Tuscanen, born in Augustae Taurinorum on the twentieth of September in the year 1811. His Excellency, Lawrence Barili, Archbishop of Tyanen, Apostolic Nuncio to the Queen of Spain, born in Anconae on the first of December in the year 1801. His Excellency, Joseph Berardi, Archbishop of Nicen, Substitute of the Secretariate of State and the Secretariate of Briefs, born in Ceccani, in the Diocese of Ferentin, on the twenty-eighth of September in the year 1810. His Excellency, John Ignatius Moreno, Archbishop of Vallisoletan, born in Guatimalae on the twenty-fourth of November in the year 1797. His Excellency, Raphael Monaco La Valletta, Assistant of the Most Holy Roman and Universal Inquisition, born in Aquilae on the twenty-third

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of February in the year 1799. Of the Order of Deacons: His Excellency, Edward Borromeo, Major Domus of the Roman Pontiff, born in Mediolani on the third of August in the year 1822. His Excellency, Hannibal Capalti, from the Secretariate of the Sacred Congregation for the Propagation of the Faith, born in Romae on the eleventh of January in the year 1811. On the sixteenth of March, he held a public consistory in the Vatican halls, in order to bestow the biretta, which is the insignia of the dignity of Cardinal, upon the Most Reverend and Most Illustrious Cardinals Lucian Bonaparte, Eustachius Gonella, Joseph Berardi, Raphael Monaco La Valletta, Edward Borromeo, and Hannibal Capalti, who had been created and publicly announced in a secret consistory held on the thirteenth of the same month. Therefore, when the Blessed Father, together with his noble retinue, descended into the hall called "of the Drapes," where the Most Reverend and Most Illustrious Cardinals, the Illustrious and Reverend Patriarchs, Archbishops, and Bishops, as well as the Colleges, had already assembled.

[*Latin ed. p. 498*]

498. EMINENT. CREATION OF CARDINALS OF THE SUPREME ROMAN ECCLESIASTICAL COLLEGE. The assembled Cardinals, the Most Eminent and Reverend Roman Senate, and finally all those who customarily attend the public Consistory, having put on their sacred vestments, were carried in a palanquin, adorned with banners, by those same men, to the Royal Hall, where they began the sacred rite. After the Most Holy Father received the sign of obedience from the Most Eminent and Reverend Cardinals, the newly appointed Cardinals, before the Most Eminent and Reverend Cardinals, the Principal of the Orders, the Pro-Chancellor of the Supreme Roman College, and the Treasurer of the Sacred College, having taken an oath according to the Apostolic Constitutions, were led by the Cardinal Deacons into the Consistory Hall, and, standing before the Pontiff's throne, kissed his foot and hand; and finally, having been embraced by the Holy Father and his colleagues, they were led to their designated places. Finally, returning to the pontifical throne, they received the *petasus*, the insignia of the dignity of Cardinalate, from the Most Blessed Father. In the same Consistory, Philip Halli, a consistorial advocate, concluded the third and final cause for the beatification of the Venerable Mary Rivier, Foundress of the Sisters of the Presentation. After the customary declaration by the Promotor of the Faith, the Most Holy Father responded: "To the Congregation for Sacred Rites, so that it may examine and report." Then the Sacred College, together with the newly created Cardinals and the other men mentioned above, entered the Hall of Vestments, and remained there until the Most Holy Father, having laid aside his sacred vestments, returned to his apartments with his noble attendants. In the meantime, only the Most Eminent Cardinals went to the Sistine Chapel, continuing to sing the Ambrosian hymn; which the singers of the pontif-

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ical chapel began to sing as soon as the Holy Father descended from the palanquin. And after this, the Most Eminent and Reverend Cardinal Dean pronounced prayers there for the newly created Cardinals, and finally, the newly appointed Cardinals received another embrace from their colleagues as they left the Sistine Chapel. This solemn ceremony was attended by, among others, Francis II, King of both Sicilies, and many members of that body, which they call the diplomatic corps, established in Rome to conduct business with the Holy See, and many other men of noble standing. In both Consistories, many vacant churches were assigned to pastors, about whom we will provide information in another section.

[*Latin ed. p. 499*]

APPENDIX I X. SACRED ROMAN AND UNIVERSAL INQUISITION. INSTRUCTION TO ALL ARCHBISHOPS, AND OTHER ORDINARY BISHOPS, CONCERNING THE OBSERVANCE OF THE CONSTITUTION OF HIS HOLINESS, BENEDICT XIV, WHICH BEGINS: "Sacramentum Poenitentiae." Note. Although the reasons for doubting the authenticity of the following document do not appear to us, we nevertheless warn the Reader that we have not taken this from an authentic source, according to what we have noted elsewhere (Vol. II, page 657). That the Supreme Pontiff, of blessed memory, Benedict XIV, in the Constitution published on June 1st of the year 1741, which begins with the words "Sacramentum poenitentiae," confirmed and decreed that these are reduced to the following four main points, especially as had already been established by Gregory XV in the Constitution dated August 30th of the year 1622, which begins "Universi": All Ordinaries of places, as well as Inquisitors, are appointed as judges to inquire into and proceed with, and to inflict fitting punishments upon those who solicit for immoral acts in Confession, even if they are exempt in any way from ordinary jurisdiction. Furthermore, all Priests who are appointed to hear the sacred Confessions are obligated to warn their penitents that those who solicit in this manner should, as soon as possible, report such individuals to the Inquisitors or the Ordinaries of the place; and those same penitents should not be absolved if they refuse to comply with this duty. Moreover, in the third place, the cases of those who falsely accuse innocent Priests of solicitation before ecclesiastical judges, or who wickedly procure that others do so, are reserved to the Apostolic See, except in the case of imminent death. Finally, in the fourth place, to every Priest is taken away all power and jurisdiction to hear the sacramental Confessions of a person who is complicit in a shameful sin against the sixth commandment of the Decalogue, unless extreme necessity compels it, namely, if there is no other Priest available to perform the office of Confessor, or if he cannot be called or approached without some grave impending infamy or scandal (1). And the cases of those confessors who have dared to absolve a person complicit in a shameful sin are reserved

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to the Apostolic See. "Indeed, there is no doubt that these prescriptions, prohibitions, and reservations extend their force to all nations, and must be observed everywhere on earth, without exception and inviolably. This is evident to anyone reading the Constitutions of Gregory XV and Benedict XIV; and this has been confirmed by subsequent Pontiffs, as opportunity has presented itself." (1) Constitution of the same Holy Father, Benedict XIV, "Apostolici muneris," dated February 8th, 1745.

[*Latin ed. p. 500*]

500 APPENDIX I X. Until this day, it has been confirmed. And indeed, the Apostolic Vicar of Cochinchina inquired: 1. Does the Constitution of Benedict XIV against solicitations obligate even Franciscan missionaries who exercise their ministry in Cochinchina? 2. Can the same Constitution be restricted or moderated in any case due to a great scarcity of confessors, in the same kingdom of Cochinchina? In response to these questions, a suitable instruction was issued by Pope Pius VI in the year 1775: to 1, affirmatively; to 2, negatively. And most recently, the Most Holy Lord Pope Pius IX, by decree of this Supreme Congregation on the fourth day of June in the year 1866, decreed that in all places where Bishops and other local Ordinaries possess, by Apostolic concession, the power to absolve from all cases reserved to the Apostolic See, they should always, henceforth, exempt such cases from the reservations contained in the Bull of Benedict XIV, which begins: Sacramentum poenitentiae. This decree, moreover, commanded that this power of absolution, granted without any exception to all local Ordinaries everywhere, should be made known to them. "Therefore, it must be impressed upon all local Ordinaries that the force of those things which are prudently provided for in the aforementioned Constitution should not, anywhere, gradually diminish. But the Most Eminent Cardinals, Supreme Inquisitors, recently learned that the same Constitution is not everywhere, as it should be, put into effect, and that in some places, abuses have occurred, both in fulfilling the duty of denunciation and in instituting judgments against those who solicit, which cannot be tolerated without a distinction of justice and prudent severity. Therefore, they judged it neither inopportune nor ungrateful to the local Ordinaries if certain measures against such abuses, which have been decreed by this Supreme Congregation according to the course of sacred canons, are brought to their attention. For this purpose, the present instruction was ordered to be issued."

1. Persons, whether male or female, and whatever they may be, who are solicited for immoral acts in Confession, or by occasion or pretext of Confession, must, as is stated in the aforementioned Constitution, report the matter to the Holy See or to the local Ordinary.

2. It is necessary to denounce any priest, even one lacking jurisdiction, who solicits in Confession, or even a penitent who, although immediately

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dissenting, consents to speak of immoral matters, and who postpones the completion of the confession to another time and does not grant absolution to the penitent.

3. Such denunciations cannot be omitted by anyone without mortal guilt. With regard to this matter, penitents must be warned, and they should not, (1) *Ex declar. diei 11 Februarii 1661 confirmata in Constitut. Sacrosanctum poenitentiae.*

[*Latin ed. p. 501*]

APPENDIX I X. Concerning the instruction and guidance of those who are to be admonished.

501. The burden of admonition is personal and must be fulfilled by the very person concerned, and no one can excuse themselves from it based on a lack of faith.

2. Priests who are instituted to hear confessions, and who, through grave difficulties, are hindered from fulfilling this obligation, ought to admonish their penitents, (1) either personally, or by letter, or through another person whom they deem suitable, to inform their Ordinary or the Holy See through the sacrament of Penance, or even through this supreme inquiry, explaining all the circumstances, and then to proceed according to the instructions they receive.

3. Penitents who are admonished and who obstinately refuse [to comply] cannot be absolved; those who have a just reason to postpone the denunciation ought to do so, and should promise to carry it out as soon as possible, and they can be absolved.

4. False denunciations against those who urge [others] to commit immoral acts are no denunciations at all. But if, for some reason, a denunciation must be made in court, it must be done in such a way that it has validity: namely, before the Bishop or his delegate, with the presence of an ecclesiastical official who acts as a notary, and with an oath, and with the expression and inscription of the name, and it is not sufficient if it is done through apocryphal or written documents without a name and surname attached (2). Furthermore, it is forbidden that, in receiving these denunciations, besides the judge and the notary, any other ecclesiastical official, specially appointed and designated by the Bishop, be present. Care must also be taken that it is not ascertained from those who are making the denunciations whether they consent to the admonition; and it would be most fitting if, concerning such consent, as far as possible, nothing is noted in the records without the intervention of the notary.

5. To this instruction, La Feuillee is appended concerning admonition.

(1) From the declarations of March 20, 1624, and October 16, 1626, found in Albitius, *De inconstantia in fide*, chapter 35, paragraph 17.

(2) Albitius, *loc. cit.*, paragraph 21.

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(3) From the declaration of Urban VIII, dated April 17, 1624.

[*Latin ed. p. 502*]

502. APPEIN, in which the denunciation must be completed in two instances. Those who are appointed to this most serious duty must be instructed and warned, in a judicial manner, regarding the act of denunciation, so that they may immediately, upon receiving the denunciation, carefully transmit it to the Bishop from whom they were deputed, and retain neither a copy nor any trace of the completed act. And in this manner, the duty of denunciation is almost effortlessly fulfilled. It is certainly the duty of the local Ordinaries to ensure that what was declared for the missions of Pernambuco in America on January 22, 1627, is not applied to places within their jurisdiction: namely, that women who are pregnant are not required to make a denunciation if the ministers of the Inquisition and the vicars of the Bishop living in distant regions cannot be reached without serious inconvenience.

9. If, in denouncements, which happens not infrequently, other persons are indicated who may also be implicated, or who may be able to provide some testimony regarding this crime, these also must be examined separately, according to the judicial form mentioned above: and first, in general terms, and then, if the circumstances permit, in detail, to determine whether and how they themselves were implicated, or whether they have seen or heard of other persons being implicated.

10. Upon receiving a denunciation, proceedings are not immediately initiated, but the superior ecclesiastical authority must diligently inquire whether the person making the denunciation is worthy of belief. The crime of solicitation is most often investigated in secret; hence, it is permissible in cases brought against this crime to admit even individual testimonies in order to establish full proof. However, the aforementioned Constitutions of the Supreme Pontiffs prescribe that proceedings should not be conducted with individual witnesses unless there are presumptions, judgments, and other supporting evidence. Therefore, the weight, qualities, and circumstances of each denunciation must be carefully considered, and before any action is taken against the denounced, it must be judged to be certain that the women or men making the denunciation are of good reputation, and are not motivated by malice or any other human affectation. It is necessary that such witnesses be free from all private affections, so that full faith may be placed in them.

11. It is the custom of this Supreme Inquisition that, after one or two denouncements, the person denounced is placed under surveillance, so that he is suspected of the crime reported, so that when the matter is revealed by new denouncements, he may be brought to judgment. In most cases, only

(i) From instructions, by order of Pius VI, given to the Apostolic Vicar of

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Cochinchina in 1775.

[*Latin ed. p. 503*]

APPENDIX IX. From the third denunciation, proceedings usually commence. 503. The accuser ought to present an abjuration, and for a formal examination, parish priests or those of approved faith, suspected of heresy, are summoned, so that they may purge themselves from the suspicion they incur; and in this also, the power of men, especially ecclesiastics, is exercised, and the penalty is inflicted in the very sentence. It must be noted that the penalties of this kind, and even the incapacity to celebrate the Holy Sacrifice of the Mass, are prescribed in the decree of Benedict XIV, dated August 5, 1745, and are to be imposed only by sentence. However, one must abstain from inflicting degradation and the loss of secular ecclesiastical status. Indeed, this was established by Gregory XV: rather, it ought to be imposed as a deterrent, rather than to be put into execution (1).

13. Whoever, through any means whatsoever, reveals the names of the accusers, or violates in any way the sacramental seal, must, having been conquered by his conscience, present himself to the local Ordinary and his delegate, and, having confessed the flagitiousness of his actions, he ought to obtain forgiveness, and must be dismissed with only the perpetual interdict from hearing confessions, and the deprivation of all and every faculty for that office, even if granted by some privilege or by the Holy See itself. This sentence shall be pronounced by the Bishop himself, or by someone delegated by him; and, according to the manner of the offense, and all other circumstances considered, other penalties shall be imposed on the accused, which are determined in the aforementioned pontifical constitutions. Furthermore, if the accused has confessed the crime in court, and the local Ordinary, having received the denunciations afterwards, has not yet condemned him, but he spontaneously presents himself; and those who, likewise, have not confessed the truth, but have diminished it in their spontaneous confession, they shall be subject to the same penalties that are determined in the aforementioned pontifical constitutions.

(1) Albrit, op. cit., chapter 15, note 13, and Benedict XIV, in a private letter dated November 11, 1718, addressed to Emmanuel de Azevedo, S.I., Priest.

[*Latin ed. p. 504*]

504 APPENDIX I X. "Concerning those who are found guilty of solicitation, they do not enjoy the benefit of impunity, but, through the prudence of the Ordinary, they may be punished more leniently." 14. "It is necessary that these cases, whether they are dealt with through an Apostolic mandate or through the proper jurisdiction of the Bishops, be handled with the utmost care and diligence, so that these same cases, since they pertain to the faith, are conducted with the strictest secrecy, and after they have

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been definitively decided and handed over for execution, they are completely suppressed in perpetual silence. All administrators of ecclesiastical courts, and all others who are involved in handling or defending these cases, must take an oath to maintain secrecy, and the Bishops and other Ordinaries of the places are bound to observe secrecy, as is provided in the law, in chapter Statuta fin. concerning heretics, paragraph 6, and in the Clementine Decrees, in many sections, concerning heretics. Furthermore, those who fulfill the duty of denunciation, and those who are subjected to examination in these cases, are obliged to take an oath at the beginning to speak the truth, and, after the matter is completed, to maintain secrecy, by the holy Gospels of God, even if they are priests. If these things are observed carefully and piously, no danger of envy, infamy, or any other peril can be feared, which might prevent witnesses from speaking the truth, or competent judges from investigating and imposing appropriate penalties for the crime of solicitation." 15. "An indulgence was granted by Pius V I in the instruction, of which we spoke earlier, in the year 1775, to the 'Apostolic Vicar of Cochinchina,' so that, since it is very difficult in those regions, which are so distant and diverse, to observe all those things that must be observed in these cases; and since, if any of these are omitted, justice does not allow punishments to be inflicted against the guilty, of whose crime there is not yet sufficient judicial proof, it may perhaps be more advisable to proceed outside of 'the order of judgment' in order to address this great evil by means and methods that are more convenient and expeditious, which the Apostolic Vicars, with prudence joined with zeal for souls, may suggest in particular cases. Indeed, everyone sees that this indulgence was granted for regions that are so distant and diverse, and that it is not common to all, nor can it be legally introduced anywhere without the authority of the Apostolic See." 16. "Furthermore, if the Ordinaries of the places encounter difficulties in conducting the proceedings, or even, after the proceedings are completed, in pronouncing the sentence against those who are soliciting, they can refer the matter, with the records, to this Supreme Congregation, which will provide particular instructions adapted to each case, as is often done, and will pronounce a definitive sentence, if it is expedient, itself." These are the things that contribute to the careful and correct execution of the aforementioned pontifical Constitution.

[*Latin ed. p. 505*]

APPENDIX I X. which, as is easily observed in all places, this Holy Congregation of the Supreme and Universal Inquisition earnestly commends to the zealous care and solicitude of the pastoral Ordinaries. "Given in Rome on the 20th day of February, in the year 1867."

MODE IN WHICH DENUNCIATIONS REGARDING SOLICITATION SHOULD BE RECEIVED BY THOSE DELEGATED TO RECEIVE SUCH DENUNCIATIONS WITHOUT THE INTERVENTION OF A NOTARY.

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On [Day] of [Month] of [Year], the undersigned, being present at [Place where the act is to be received], for the sole purpose of this act, personally appeared before me the following person, having been specially delegated by the Most Reverend Ordinary, as evidenced by the letters sent to me by the aforementioned Ordinary, dated [Date of the letters], and attached to this document: N. N. [Write the name, surname, father's name, place of origin, age, and residence of the person making the denunciation; and if this person is a religious, also write the name by which she was known in the world. Then proceed as follows.] To whom, after taking the oath of truthful testimony, which he performed by touching the Holy Gospels [which he was permitted to touch with his face], he declared as follows, namely: This person must declare in his own language that he knows that he has been granted the authority by the Ordinary of the place to receive [denunciations] without the intervention of a notary, in order to clear his own conscience, because for just reasons he cannot appear before the aforementioned Reverend Ordinary: then he must continuously relate what pertains to the solicitations made to him, whether they were words, or writings, or actions, accurately describing the place, time, occasion, circumstances, and all details, as well as whether these events occurred during the act of Confession, or before, or after sacramental absolution. He must name the confessional seat and the confessor who was soliciting, and if he does not know or has forgotten the name and surname of this person, he must accurately describe his person, noting all distinct characteristics, so that he can be recognized. The delegate must note that the person making the denunciation should not be questioned as to whether he consented to the indecent act in any way, or refused it, since he is not obliged to manifest his own defects. After these things have been written down as they are related, the delegate must require nothing further, nor anything else.

Question: Does he know, or has he heard, that N. N. [naming the person] solicited the confessor?

[*Latin ed. p. 506*]

506 APPEH x ix. Respondet: [The response should be noted]. The act is concluded in this manner. Having possessed and received [the aforementioned], he/she was sworn to observe silence regarding the question: Concerning the reputation of the aforementioned, has there been any new development concerning the Holy Scriptures of the Gospels? Confessor N. N. swears, both before himself/herself and (upon the Gospel again) and before others, and to the extent [specified], in confirmation of the foregoing, that he/she responds: [The response should be written down and signed]. If he/she is unable to write, as he/she asserts, he/she will make the sign of the Cross (the sign of the Cross should be made with the pen). Interrogated: Whether, out of hatred or love, or for other general reasons, etc., and to the extent [specified], he/she has concealed [the aforementioned].

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He/she responds: Correctly (if he/she says this to clear his/her own conscience). If, in addition to the aforementioned, he/she has been influenced by other factors, he/she will also be questioned: Subsequently, the entire act will be transmitted directly to the proper Ordinary, along with the instructions and the answers received, retaining nothing for himself/herself. [Regarding] other penitents who have confessed [transgressions], and to the extent [specified]. He/she responds: [The response should be noted, and if this is an affirmative response, the names and surnames of the individuals involved should be inquired about, and the reason for the knowledge].

APPENDIX X. CONCERNING THE REMOVAL OF CLERICS FROM OFFICES ESTABLISHED IN THE CHURCH, WHOSE OFFICES ARE PERMANENT.

Taking advantage of the opportunity presented by the case that appears at the beginning of this volume, we will examine some matters concerning the removability of those clerics who have been appointed to offices established by the statutes of the Church, and who are considered to be removable, either simply or at the will or pleasure [of their superiors]. The opinions of the authors regarding the nature of this removability vary; these opinions can easily be divided into two main categories: namely, the opinion of those who teach that such clerics cannot be removed without a reasonable cause, and the opinion of those who teach that they can be removed.

[*Latin ed. p. 507*]

IX. X. A canonically defined cause and canonical form are not required; and, according to the opinion of those who teach, a cause is not necessary. Although such questions, when considered in the abstract, cannot be resolved for all who encounter specific cases; nevertheless, they can be considered in some general respect, so that general criteria may be derived from them, by which these questions may be more easily resolved in practice. The removability of clerics from specific offices in the Church can be understood in two senses: absolutely, and relatively. Absolutely, it is understood when the subject who is said to be removable can be removed at will and according to the judgment of those in authority, so that the will prevails over reason; relatively, when the subject is said to be removable because he is not bound by certain established laws, so that he cannot be removed except under some condition and form prescribed by law. We maintain, considering generally the canonical discipline of the Church, that removability should be understood not absolutely, but relatively; and the general solution of the question depends on this determination. It is evident from the early centuries of the Church that, as the Christian people increased, various determined offices were established for clerics to perform, and various degrees of rank which they would attain: these offices, or

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ecclesiastical ministries, were closely connected with the sacred Ordination of the clergy, so that it was not uncommon to say that a private priest, who had deserved to be removed from ecclesiastical service, had his priesthood taken away; or that his Ordination was invalid, if it was not connected with the performance of an office in the Church. It is pertinent in this matter to refer to the words of the Council of Chalcedon, canon 6: "No priest or deacon, nor anyone in ecclesiastical rank, ought to be absolutely ordained, unless the church of the city, or the possession, or the martyrdom, or the monastery, for which he is to be ordained, shall have declared it. But those who are absolutely ordained, the Holy Synod has decreed, to have such imposition of hands to be invalid, and to be unable to minister to the detriment of the ordainer. And in this matter, the opinion of Cyril of Alexandria in his letter to Domnus was beautiful. The old bishop had indeed been removed from his episcopal see; nevertheless, those who had deposed him by a judicial sentence still called him a bishop, out of some compassion, a very pious and religious man: Cyril, writing to Domnus, said: "It was fitting, that either the name of priesthood should be joined with the thing itself, or, if he was not worthy to preside at the altar, he should not even be held worthy of the very vocation of bishop." By the sacred Ordination, clerics are bound to the Church, so that they do not have the power to withdraw from the state of ecclesiastical service: concerning which matter, the Council of Chalcedon decreed canon 7: "Those who have once been enrolled in the clergy, or have embraced the monastic life..."

[*Latin ed. p. 508*]

508 APPENDIX X. [The Council of Trent decreed that] those who, having aspired to, and obtained, [a position], whether in the military or in some worldly office, or who, having attempted to make amends, do not return to that which they had originally chosen for the sake of God, shall be excommunicated (1). And such a restriction was not a certain abstract connection of the Cleric with the entire Church; but with the Church in which the Cleric had been ordained, to which, by reason of the sacred Order, he was perpetually obligated to serve. In this matter, the letters of St. Leo are to be remembered; in particular, the letter 1 to the Bishop of Aquileia, in which he wrote: "We remind you again of that part of ecclesiastical discipline, which, as often decreed by the holy Fathers and by us, it is not permitted for anyone to pass from one Church to another, whether in the rank of presbyter or in the order of deacon, or in any subsequent office of the clergy. Let each one persevere where he was ordained, not led by ambition, not seduced by greed, not corrupted by the persuasion of men; so that if anyone, seeking his own [advantage], neglects to return to the people and the Church, he shall be considered an outsider, deprived of the privilege of honor and the bond of communion." Also, in letter VIII to the Bishops of Illyria, the same Pontiff wrote: "We also wish that the

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bond of priestly concord be observed by all with equal care, so that no Bishop shall dare to claim another Bishop's Cleric for himself without the consent of the Bishop to whom he belongs, which consent, however, must be contained in written evidence; for this has been defined by the authority of the canons, and the very reason for preserving unity teaches that the entire ecclesiastical order should not be made unstable through such license." But perhaps someone will say that the testimonies cited concern the cornerstone of ecclesiastical discipline, which, if not strictly observed, especially in its time, would have caused the entire firmness of discipline to collapse. To this we respond: the firmness of the cornerstone informs the entire discipline, so that, with a proportion maintained, the same firmness extends even to the smallest matters; and conversely, if those things that seem to be minor are neglected at will, even the cornerstones of discipline will eventually weaken (2).

(1) In referring to these and the following documents, we use the most accurate and recent editions, both of the *Jura ecclesiastica Graecorum, Historia et monumenta*, by Cardinal I. B. Pitra, volume I, published under the auspices of Pope Pius IX, and of the *Bullarium Romanum*, published by Augustus Taurinorum, Appendix prima, Fol. I.

(2) In this matter, it is appropriate to refer to letter VIII of the same Pontiff to the Bishop of Dorum, whom he sharply rebukes for having preferred the Epicarium to the others for consecration, and for having placed him in the rank of presbyter, with two consenting presbyters, in the order of the presbytery. The following are the words of St. Leo on this matter, which at first glance might seem of lesser importance: "To the most beloved Brother, Dorum." "We are grieved that the judgment we had hoped for you has been frustrated, when we see that you have committed things that would violate every rule of ecclesiastical sanction with a culpable novelty: for you know fully well..."

[*Latin ed. p. 509*]

509 nx x. Although Clerics are bound perpetually by the decrees of the Holy Councils, or of ecumenical councils, or by provincial synods, which pertain to a particular Church; nevertheless, since, after due discussion and approval, certain causes have been established which make the Church a most orderly society, so that Clerics might be chosen for punishment, there were several reasons why those same Clerics, who were deemed unworthy of the clerical order, were removed and deprived of their offices; these reasons were not known at the time. However, these were not benefits. For in the early centuries of the Church, under the administration of the Bishop, the faithful offered their alms and Church property, which were distributed to the Clerics by the Presbyters or Deacons, according to the dignity of their offices, partly according to the apostolic custom, and partly according to determinations made in the causes, and according to

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the canons established by all the Churches of the fathers; and We desire that these rules be observed, and that the greatest care be given to the Priests (that is, the Bishops who have received the fullness of the priesthood, to whom the name of Priest properly belongs, as evidenced by the documents of Xanten). We are astonished, therefore, that you, who should have been most observant of the authority of the Apostolic See, should have acted so negligently, and rather as a transgressor than as a guardian of the established laws. In the book of Paul the Presbyter, which is held among your subordinates, we learned that the order of the Presbyterate has been disturbed in your district, so that the rapid and premature advancement of some has led to the demotion of others, whose honor was due to their age, and who were not guilty of any offense. If the intention of those around you, or the misguided zeal of those who favor you, led to this, which has never been permitted by custom, that a beginner should be preferred to those who are experienced, then it was your duty, by your industry and doctrine, to restrain the unjust desires of those who seek to advance, with reasonable authority. ... If, however, as is asserted, the first and second Presbyters, in order to place a certain Epicurus above themselves, gave him so much honor, that they even sought to reward him; then, even if they did not do so according to their own judgment, they should have been granted what they desired; for it was more fitting for you to yield to their will than to oppose it... Therefore, those Presbyters, who have declared themselves unworthy of the honor of their order, although they deserve to be deprived of the priesthood, nevertheless, in order that obedience may be given to the Apostolic See, they shall be considered the last among all the Presbyters of the Church; and in order that they may express their judgment, they shall be lower even than that person whom they themselves have preferred: while all the other Presbyters shall remain in the order to which each was assigned by the time of his ordination... But Paul the Presbyter, who has maintained his order with commendable firmness, shall continue to do so, so that nothing may be presumed to be done to the detriment of anyone; and so that your affection... may at least provide this remedy, that these things which We decree be carried out without delay, so that, if a just petition is again presented to Us, We may not be forced to take more severe measures; for We prefer to restore discipline than to increase vengeance. Know that We have entrusted the execution of Our instructions to Our brother and Coadjutor, Julius, so that all things may be strengthened immediately, as We have established them.

[*Latin ed. p. 510*]

510 Furthermore, diligence: In this matter, the Constitution of Gelasius I, which was customarily transmitted to Bishops for their guidance, is relevant. This is also mentioned by Gratian in cause 12, question 2: In it, the following are established according to the norms of the ancient canons:

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"The Bishop should strive not to diminish the ministries and adornments of the Church, or anything that belongs to its patrimony, but to increase them. Regarding the revenue of the Church or the offerings of the faithful, he should divide it into four portions; of which one he should retain for himself, another he should distribute to the clergy for the diligence of their offices; a third he should give to the poor and strangers; and the fourth he should set aside for ecclesiastical buildings. Of these, he will have to render an account to divine judgment." However, in subsequent times, with the institution of Benefices, although the methods and forms of discipline have changed, the spirit of the Church, which informs that discipline, has not changed. For the ecclesiastical offices remain, and nothing more than that those offices have been connected with ecclesiastical goods has been done, so that those who are appointed to certain offices have the right to administer the goods connected with those offices, and to receive the revenue or proceeds therefrom: these goods or proceeds, when connected with certain ecclesiastical offices, are called Benefices. Since, moreover, clerics are perpetually added to a church through the sacred Order, to whose ministry they ought to be dedicated, and from which they receive sustenance, so also, with the establishment of Benefices, they are perpetually attached to them, so that they cannot be removed from the Benefice except for a canonically proven cause. But since the firmness of ecclesiastical discipline required that those appointed to Benefices could not be removed without a canonical cause and canonical form, certain offices were subsequently established in the Church, or ecclesiastical foundations, which, in order to distinguish them from the general nature of discipline, were called removable. These offices or ecclesiastical foundations, which were established later, indeed have something in common with Benefices; but they are not true Benefices, whose principal characteristic is that they are perpetual. From this general consideration, it appears that the removability of clerics, which is frequently heard of in more recent foundations, owes its origin to the firmness of Benefices, which firmness must be recalled from the ancient discipline, by which clerics, by being attached to a particular church, were perpetually bound to the service of that same church. Therefore, the removability of clerics from their established offices should not generally be understood in an absolute sense, but only in a relative sense; from which it follows that, although they may be removed without a canonically prescribed cause and form, because of the nature of the foundations from which they derive their support.

[*Latin ed. p. 511*]

IX. X. The Church admits [a cleric]; however, he cannot be removed without a just and reasonable cause; and although this cause is not prescribed canonically, it must nevertheless be in accordance with equity and the nature of the holy canons. For nothing is so foreign to the spirit of

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the Church, which is the most orderly society, as the arbitrary action by which we would treat domestic servants, or any very slight cause, which, being easily confused with a lack of cause, is readily abused. And here, it seems to be the sense of the Holy Congregation of the Council, as can be gathered from several cases treated therein, which it suffices to indicate here. In the case of Nullius or Farfena, August 1791, there was a question regarding a chapel, which was erected by members of the Fraternity of St. Sisinnio, with the intervention of the Ordinary. These same members named a first chaplain as immovable for that time only, but they wished that, with the aforementioned first appointment preserved, the remaining chaplains should be removable at the will, both of the confreres themselves and of their successors in the said fraternity for the time being, perpetually. A certain canon subsequently rightfully obtained the chaplaincy; but then the confreres removed him for the following reasons: namely, because he had obtained a double composition of Masses from R. Fabrica; because he had obtained a double reduction of the same from the Holy Congregation of the Council; and because certain investments had been made of certain funds without the knowledge and consent of the confreres. When the case came before the Holy Congregation, C. 511, it appeared that the composition had been made for the peace of conscience of the chaplain by a legitimate authority; that the reduction had also been properly obtained; and that there was no evidence of any improper investment being made, the doubt being: "Whether there is a place for the reinstatement of the chaplain in this case?" The Holy Congregation answered: affirmatively. Also, in Rome, regarding the suspension of burdens. The Archhospital of the Most Holy Savior, by virtue of several legacies, has many burdens, among which are removable chaplaincies; and since the economic condition of the same had become very miserable, the administrators requested the suspension of burdens, and also of the chaplaincy! Among other things, it was noted on the file of the case, §. Quatenus., that there were authors who believed that chaplains could be made removable at will, but the Holy Congregation, with a more just opinion, requires a just and reasonable cause for dismissal; and that, when this cause is lacking, those dismissed are often reinstated. It remains to be judged whether the existence of the hospital provided a sufficient reason for removing the chaplains. The doubt being: "Whether and in what way there is a place for the suspension of burdens in this case." The Holy Congregation answered: affirmatively, "according to the vote of the Eminences, the Cardinal Vicar of the City and the Cardinal Visitor, except for two chaplains of Bergama and of the Most Holy Sacrament in the town of Fabrica, for three years." Also, in Messana, on March 18, 1854, for a vacant parish.

[*Latin ed. p. 512*]

512. In the town of Gazzi, the church of Saint Nicholas, after a prelimi-

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nary discussion, elected Father Philip as a priest with the title of Chaplain-Curate, who, as the Archbishop stated, could be removed at will; although Philip denied this and maintained that it was a permanent parish benefice, which also included several dependent churches. After 30 years, he was removed by the Archbishop, who, when asked to present the reasons for the removal before the Sacred Congregation, adduced some general reasons, but presented no document that demonstrated the faults with which the parish priest was accused; on the contrary, the parish priest presented documents with which he defended himself against the alleged faults. The Archbishop seemed to have been determined to remove the parish priest, especially because of the power he believed he had to remove a parish priest at will. Therefore, the question was raised: "Can the deprivation of a parish benefice be justified, or rather, is there a place for reinstatement in this case?" The Sacred Congregation answered: "Negatively to the first part, affirmatively to the second." To this can be added the case of the Vicar-Curate mentioned above, in which the Sacred Congregation indeed upheld the Vicar Capitular's decree of removal, but only for the reason stated; and from this it follows that, in the second proposition of the case, the Vicar-Curate was given the option of retaining one office or the other; hence, the sole obstacle to retention was the holding of both offices simultaneously, which was considered a sufficient reason to uphold the decree. In general, this is the case; we do not deny that there are cases in which, without a canonical cause, a removal can be upheld in the external forum. This happens more frequently in those offices which, by their nature, are not permanent: but consist in a mere temporary appointment, such as temporary vicariates, in which the clergy appointed do nothing in their own name and are usually removed by those who appointed them, in whose name they act, although even in this case, those who teach are also subject to the limitation that they can be absolutely removed without any cause, provided that there is no fraud or malice. But the resolution of such specific questions seems to depend more on the nature and character of each office, or the customs of others, and other related factors, than on the usual formulas of removability "at will," or "at pleasure," or "without cause."

[*Latin ed. p. 513*]

513 FROM S, CONCERNING THE CONCILIATION. ERECTION OF A BAPTISMAL FONT. March 21, 1868. Session 21, chapter 4, day of reform. SUMMARY OF THE MATTER. — In the territory of S., there exists a parish lacking a baptismal font, and all the children of that parish, in order to receive Baptism, were, from time immemorial, taken to the cathedral church. The heads of families of that parish petitioned Most Holy Lord [the Bishop] for the grace of erecting a sacred font; they explained that the center of the parish, where the parish church is located, is situated several Roman miles distant from the aforementioned cathedral, and that, due to the force of

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the winds and rains, it was impossible for them to reach it without great difficulty and danger; especially during the winter season, when, due to the abundance of snow, the road leading to that church often remained impassable for many days. Furthermore, they affirmed that, since more families were found at the extreme limits of the parish, living in mountainous and precipitous areas, and located several Roman miles away, it had happened more than once that children being taken to the cathedral were exposed to the danger of death. They also did not fail to note that, in ancient times, the parish consisted of only seven or, at most, eight families; whereas now, it consists of sixty-four. Finally, with regard to the benefits that the cathedral parish priest would receive as a result of Baptism, they admitted that these were very small, and not due to any obligation, but solely to the generosity of the parents of those being baptized. Such petitions, as is customary, were submitted to the Bishop, who replied that the petitions corresponded to the truth, if those matters concerning the rights of the cathedral parish priest are taken into account; and furthermore, for various reasons, the petitions were supported. The chapter of the cathedral also adhered to the petitions of those supplicants. Acts, volume III, section XXXIV, 33.

[*Latin ed. p. 514*]

514. CONCERNING THE ERECTION OF A BAPTISMAL FONT. I observed that both the Bishop and the Chapter deemed it necessary to maintain a certain quantity of grain, which they called "Quartesium," both from the Bishop's table and from the Chapter; this "Quartesium" each family was obligated to contribute annually, ostensibly for the administration of Baptism. Finally, the Cathedral Parochial Vicar did not deny the necessity of prayers; however, since he received uncertain benefits from the administration of Baptism from the parishioners, he requested that they grant him a sum of 500 livres, so that the Cathedral parish might later receive 30 livres annually, a sum, he claimed, that would compensate for the uncertain benefits that the Cathedral Parochial Vicar had received up to that point. "Synoptic Disputation." It was noted, by virtue of office, that parochial churches, as such, could not legally demand a baptismal font if they lacked one; since, according to the Holy Canons, not all parochial churches are endowed with a sacred baptismal font: and the Council of Trent maintained a distinction between parochial churches and baptismal fonts, as is indicated in session 24, chapter 13, concerning Reforms, and the Sacred Congregation of Councils in Urbinate on June 15, 1624, judged: "In all parochial churches, there ought to be a baptismal font, unless in some particular churches, baptismal fonts have been specially designated, which are called mother churches or baptismal churches, so that a distinction is made between mother churches and other parish churches," as reported by Fagnanus in chapter concerning Tithes, number 59, and by Nicholas Lucas, canon, volume 2, book 3, title 42, under number 6. However, it was noted that the Sacred Congregation

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of Councils, with just and legitimate reasons, which could be reduced to a serious difficulty or great inconvenience for the parishioners in accessing the mother church, had several times judged that there was a reason for the erection of a font; specifically, in the Erection of a Font in Leodien on June 7, 1692, in which, when the Chapter of the cathedral church argued that a baptismal font could not be erected in the parochial church of Saint Nicholas beyond Mozam, but that all children born in that church must be baptized by the Parochial Vicar of the mother church to which that Chapter was united, the Parochial Vicar of Saint Nicholas stated that his parish had eight thousand inhabitants and was located approximately one Roman mile from the mother church.

[*Latin ed. p. 515*]

515. ERECTION OF A BAPTISMAL FONT. A newly constructed enclosure was an impediment to easy access to the church; the question was raised: "Is the location for the erection of a baptismal font in the church of Saint Nicholas permissible?" The answer was affirmative, as stated in Decree 42, page 327. In Mozam, Saint Gregory responded: "Also, in Piacenza, on April 26th, while conducting a pastoral visit to Planellara, the parish priest was freed from all manner of subjection to the faculty of the same diocese, as the local bishop Trivotii had requested; on Holy Saturday, the people of the locality had requested that the church of Trivotii be designated as a baptismal church and be assigned to the archpresbytery; in 1698, a notable font was erected in the locality of Trivotii, and this decree was issued to the Plebe of Trivotii. The Sacred Congregation responded affirmatively to the question: 'Can this decree be upheld in this case?' as stated in Decree 48, page 184. Similarly, in Fulginata, on June 22, 1720, the question was raised: "Is the erection of a baptismal font in the parish church of Saint Mary of the Castle of Seronis permissible?" The Sacred Congregation responded affirmatively, and furthermore. In this case, the matter concerned the erection of a baptismal font in the parish church of the Castle of Seronis, which had recently been built, so that the faithful could be baptized. Also, in Guardien, on May 21, 1736, and in Urbevetana on March 24, 1735, and in Verulana on August 1744, the erection of a baptismal font in the parish church of Saint George and Christina of the locality was denied, although in the elections of December 2, 1747, it was granted, because the parish priest had previously proposed it, and the opposition was because infants could not be baptized there; however, this was permitted by a rescript, and the Bishop was entirely responsible to ensure that the church of the Most Holy Savior (which previously retained a font) did not suffer any detriment. It was noted that other reasons could also be present, which seemed sufficient for the erection of a parish church, and even more so for the erection of a baptismal font. However, since the erection was granted only with the preservation of the rights of those concerned, it remained to

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be determined whether...

[*Latin ed. p. 516*]

516. ERECTION OF A BAPTISMAL FONT. It might be the case that such an erection would infringe upon the rights of others. Therefore, since it was certain that the parishioners had been accustomed to pay a certain measure of grain, which they call a "Quartesimo," to the Episcopal See and the Chapter, it was observed that this "Quartesimo" had the nature of personal tithes, and that the baptismal church could lawfully demand personal tithes from the parishioners of another parish, even though they receive the other sacraments in their own church, as Cardinal Petavius teaches in *ad Const. 2 Greg.*, XL, tom. 4, n. 21 and 22, where he wrote: "For since personal tithes are due to parochial churches on account of the administration of the sacraments, which are therefore called 'sacramental,'..." The baptismal church can therefore lawfully claim these tithes from the parishioners of filial churches, who receive baptism from it, even though they receive the other sacraments and hear Divine Office in their own parish; for personal tithes are due not only to the church in which the Divine Office is heard, as the *Glossa in can. Statuimus, verb. baptismalem* 16, question 1 states, and as *Rebuffus de Decimis* q. Q, n. 2 states, but also to that from which the sacraments are received, as is clearly stated in *can. Questi, 16, question 1, ibid.*; families should give tithes where their children are baptized, and where they hear Mass throughout the year. Therefore, it is more accurate to say that personal tithes are due both to the baptismal church and to the parochial church, as Fagnanus affirms in chapter "Cum contingat de decimis," n. 55 and 56... And the Holy Congregation of the Council, in *Eugubina*, considered a case in which the Rectors of baptismal churches were accustomed to demand a certain portion of one "emina" of grain, commonly called a "Quartesimo," for each family residing in those parishes that lacked a baptismal font, and whose inhabitants received baptism in the same parochial and baptismal churches. But since the parishioners believed that they were not obligated to do so, especially since this demand was related to the administration of baptism, for which, as for other sacraments, any emolument is prohibited by the Holy Canons, especially in the Innocentian tax; the question was raised: whether this portion of grain should be paid to the Rectors of the baptismal churches, and based on the reasons given above, the answer was that it should be paid, on August 18, 1684. And there was no other reason to be given.

[*Latin ed. p. 517*]

CONCERNING THE ERECTION OF A BAPTISMAL FONT. 517 » Regarding the prohibited exaction of temporal dues for the administration of sacraments; for the aforementioned "Quartesium" was collected under the title of "personal tithes".... However, the question to be considered in the

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present matter is whether, through the new erection of a font in the town of S. within this parish, the parishioners would be relieved from paying the "Quartesium" to the Episcopal See and the Chapter, since they would no longer receive baptism in the cathedral church. Regarding this matter, it is observed that, although the Authors teach that personal tithes, by their own right, pass to the new parish if a new parish is erected, as Fagnanus states in the aforementioned location, number 52, because the parishioners are, indeed, obligated to hear the Divine Office and receive the Sacraments there, nevertheless, the same Fagnanus, in number 57 concerning tithes collected for baptism, seems to indicate the contrary; for there he teaches: "When the Archbishop of Urbino assigned a certain portion of the tithes belonging to the registry, which they call the 'Quartesium,' to another parish, because Baptism, which was administered only in the registry, was also established in that parish; the Holy Congregation decided, in Chapter 4, session 21, that this did not apply to this case." Therefore, it was affirmed that, in the present matter, the "Quartesium" should be maintained for the Episcopal See and the Chapter; even more so, because the Canons had explained "that it is very important for the Chapter to preserve this part of the parochial right, since the "Quartesium" remained with them as a document of the habitual parochial right that they previously possessed." Furthermore, the uncertain emoluments of the Cathedral Parochus, which he would lose, were also considered; it was observed, however, that the parishioners were not obligated to pay anything to that Parochus for Baptism, since they were already paying the "Quartesium" to the Chapter; nor would the Parochus immediately lose those emoluments that he received from giving testimonies for genealogies and births, etc., since such rights would cease after a few generations. With these and other considerations, the following doubt was proposed: "Whether and in what manner is there a basis for the erection of a new baptismal font in this case?"

RESOLUTION. — The Holy Congregation of the Council decided on March 21, 1868, to respond affirmatively, provided that the customary payment, commonly called the "Quartesium," be rendered to the Episcopal See and the Chapter.

[*Latin ed. p. 518*]

518. ERECTION OF A BAPTISMAL FONT. From which we gather: I. Parochial churches that are not baptismal churches cannot, by law, demand the erection of a baptismal font, unless there are legitimate reasons that suggest the erection of such a font. II. Such reasons must be reduced to the serious inconvenience that parishioners must suffer in bringing newly born infants to the baptismal church to receive the sacred ablution (1). III. Once the erection of a font has been granted for legitimate reasons, all other rights of the mother church must be observed. IV. Indeed, even those obligations that are paid as personal tithes must be fulfilled; all the more

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so if these have been given as a sign of belonging to the mother church (2).

(1) Due to a lack of valid reasons, the Holy Congregation has repeatedly denied the erection of such a font, as in the case of Camerino. See *Erectionis fontis baptismalis et iuris baptizandi* of February 10, 1748. It is not proper to disturb the established order in churches, which originates from ancient canons, when there are no legitimate reasons that suggest that such a disturbance should be made. This reason is briefly described in the *Thesaurus Resolutionum S. C. C.*: "Of the three parochial churches of Camerino, one is the Cathedral, and the others are dependent churches. The Cathedral church has retained a baptismal font since a time of which there is no human memory; and all infants are brought to this font to be cleansed with lustral waters. The canons of the parochial church of St. Venantius desired to erect a font in their church and presented their petitions to this Holy Tribunal, with the reasons that the erection of a font would be suitable for the parochial church, and that, especially in winter, many infants suffer inconvenience when they are brought to the font in the Cathedral church. After hearing the arguments from both sides, the Bishop considered it undeniable that the canons of the collegiate and parochial church of St. Venantius were correct. However, the canons of the Cathedral church maintained that they had a private right to retain the font and to baptize infants, arguing that the inconveniences were not new, and that the right to baptize was not necessarily parochial. Therefore, the question was posed: 'Is there a place for the erection of a baptismal font and for the right to baptize, respectively, in the collegiate and parochial church of St. Venantius in Camerino?' The response of the Holy Congregation was: negatively, and furthermore."

(2) See a similar case as the one we have presented on page 413.

[*Latin ed. p. 519*]

519 OF RESTORATION AND ITS FRUITS. On May 5th, February 22nd, 1866, and March 21st, 1868. Session 24, chapter 12 concerning the *Compendium* of Reforms. Angelus N., having been established in the minor orders in the year 1823, obtained a canonry in a certain distinguished collegiate church; at the beginning of the year 1834, having relinquished said canonry, he obtained another in another collegiate church of the same city. Angelus was said to have diligently and with exemplary care performed his choral duties until the year 1850, when, owing to an unhealthy atmosphere that pervaded the entire region, and suffering from persistent fevers and abdominal pains, he was compelled, with the permission of the Bishop, to be absent from the choir and his residence for two or three months in the years 1850, 1851, 1852, and 1853. In the years 1854-55, as his illness grew more and more severe, Angelus, following the prescriptions of the physicians, was compelled to leave his city in order to regain his health; having made supplications to the Sacred Congregation of Clerics, he obtained an

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indulgence for five years, by virtue of which he could reside elsewhere for four months of each year; when this indulgence expired in the year 1861, he renewed his supplications and obtained an indulgence for one year of absence, which was extended, as the reason for his absence, namely his infirm health, persisted. In the year 1863, having completed forty years of choral service, Angelus requested an indulgence of jubilation from the Sacred Congregation of Clerics; but, after supplications made to the Ordinary, the latter did not grant Angelus's wishes, especially considering the dissent of the Chapter; and the Ordinary was of the opinion that Angelus should be granted the faculty of being absent from the choir and his residence for several months. Angelus, with the consent of the Chapter, obtained such a faculty in Rome, which was also extended; but when, in the year 1865, he requested an executive decree regarding the aforementioned rescript, the execution of which was left to his own discretion and conscience, the Ordinary refused, for the reason that he did not wish to have it imputed to him that he was acting in a way that would cause blame to be attributed to him, either by God, or by the Chapter, or by the people who required Angelus's assistance. The Chapter, on this occasion, formally notified Angelus of the penalty of forfeiture of his canonry, and, in turn, they themselves would suffer a proportionate loss.

[*Latin ed. p. 520*]

520 OF RESTITUTION AND FRUIT: They divide the portion of the canonical fruit of that Benefice. However, this was unacceptable to Angelus, who, having issued a protest against the Canons, appealed to the Sacred Congregation, requesting the grant of the Indulgence and the restitution of the fruits which the Canons had withheld from him.

THE ARGUMENT PRESENTED BY THE CANONS. — The Canons maintained that the Indulgence of Jubileum should not be granted unless it was proven that he had rendered continuous and laudable service for 40 years; they asserted that Angelus had not rendered such service, for, they said, he had been absent from his residence for several months over eleven years in order to expel fevers; he had spent several years in the seminary in order to acquire letters and sciences while still enjoying his first Canonry; indeed, he had spent several years in the town of N. teaching boys; and that this absence, although having a laudable cause, had nevertheless harmed the choral office of the church; nor was it sufficient to justify his absence with the permission of the Bishop, since the general law of residence could only be waived by the Supreme Pontiff; and, moreover, that, having noted instances of deceit, he had not celebrated more than five hundred Conventual Masses, as he himself had not done so. Regarding the deprivation of the fruits, the Canons stated that they had issued a protest so that, having been denied the execution of the Rescript by the Bishop, if he did not quickly return to Oppido, he would be liable to lose the right to

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receive the fruits; but, since he did not return, the Canons had divided the fruits of his Benefice among themselves as a penalty for his absence and as compensation for the deceit.

THE ARGUMENT PRESENTED BY ANGELUS. — In response, Angelus maintained that he had served the choir continuously and laudably, citing the testimony of the Abbot, which showed that he had served the choir most diligently in the Collegiate Church from the year 1823 to the year 1833; later diligence was testified to by another Canon of the second Collegiate Church; and, furthermore, the predecessor Bishop gave testimony in these words: «Throughout the entire time that we presided over this diocese, namely for nineteen years, Father Angelus maintained such a pattern of life, both excellent and ecclesiastical, that he was an example to all. His assiduity in the service of his church, despite his infirmities, his prudence in administering the property of the poor and the sick...»

[*Latin ed. p. 521*]

OF RESTORATION, JOY, AND FRUIT: 521 "and other social virtues bound the souls together;" and elsewhere: "from the beginning, the choral service has been constant." If, after the year 1850, he was sometimes absent, he attributed this to infirmity, as attested by the sworn testimony of physicians. He stated that he had been falsely accused of being absent for eleven years; whereas, he had only been absent for four years, from 1850 to 1853, for two or three months at a time, due to infirmity, with the consent of the Chapter, which did not sign any false documents nor make any deductions; and that he had obtained permission from the Bishop for these absences: he noted that the Bishop could grant such permission due to infirmity, according to the disposition of Chapter 1 of the regulations concerning non-resident clergy in the 6th class, as testified by Garzia, who, in his work on Benefices, page 3, chapter 2, section 2, number 406, states: "nor can the Bishop grant such a license for absence from the choir, except for a noble cause, unless in cases expressly stipulated by law..." And it appears from the following declarations of the Sacred Congregation of the Council: "nor can the Bishop excuse anyone from residence in the choir, except according to the disposition of chapter 1 concerning non-resident clergy in the 6th class." Secondly, whether the Ordinary can excuse a cleric, whether Canon or Chaplain, from residence in the choir for a legitimate reason, according to chapter 1 concerning non-resident clergy in the 6th class, without the consent of the other Canons or Chaplains, whose interests seem to be affected by the right to increase [their income]. The Sacred Congregation responded: "it is possible, if it is for a reason included in the aforementioned chapter, because that Council did not abolish nor require the consent of the Chapter, as has already been decided (1)." Also, Fagnanus, in chapter "Licet," concerning those assigned to the 6th class, numbers 75 and 135. He noted that the permission obtained for absence

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from the choral service, in the present case, should also have included permission from residence; since this had been granted to him in order to regain his health after losing it due to the unhealthy air of the region; and in fact, he had repeatedly obtained such permission from the Bishop and later from the Holy See. Regarding the time spent in the Seminary for studies, he confirmed that he had lived there for only three years: and he noted that a cleric could be absent from his church in order to be imbued with sacred sciences, according to the disposition of the Tridentine Council, session 5, chapter 1 concerning reforms, and chapter 5 concerning teachers, as Fagnanus states in the aforementioned location, number 6, with these words: "Note that those holding offices can lawfully be absent for the purpose of study (1)."

[*Latin ed. p. 522*]

522 CONCERNING THE GRANT OF LIBERALITIES AND THE RESTORATION OF BENEFITS. » It is understood that the Church does not permit... also, understand that this refers to the Ordinary's permission, which » the Ordinary himself is obligated to grant... but the Holy Congregation of Councils has also declared that such permission can be granted by the Bishop for a period of five years, and if he refuses, his superior should be consulted (1). » However, even if these years of study were deducted from the forty years of service, the same period of time would still be considered fulfilled. Regarding the assertion made to the contrary, concerning an absence for several years due to teaching children in the village of N., it was noted that this was contrary to the truth, and that it had not prevented him from adequately fulfilling his duties in the choir, since the first canonical position only required service on feast days, of which he had provided testimony above. As for the Conventual Masses, which were said to have been missed by him, he demonstrated that, although he had not celebrated them himself, others had celebrated them in his place. Regarding the questions posed to the Holy Congregation on May 5, 1868: I. « Whether the Indult of Liberalities should be granted in this case:» II. « No, and in what » amount should the Chapter restore the benefits to the Canon in this case... the fruits of the Prebend in this case. » The Holy Congregation responded: To I. The evidence is insufficient. To II. The matter is deferred, and the Bishop should be heard. The Bishop, after being heard, stated nothing about a division of the fruits made by the Chapter, but, recalling that the grant of the Indult had been repeatedly postponed, he added: « However, I have repeatedly urged the Most Reverend [Archbishop] to return to the city, at least during the winter, when the influx of swamps is less harmful, so that (since in that Collegiate Church there are few Canons, and some of them are of poor health), he might assist the choir as much as possible, and provide spiritual help to the faithful; especially in the administration

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of the Sacrament of Penance, to which I had always devoted myself with great zeal while I was in my homeland. He, however, did not consider it appropriate to comply. Therefore, in the month of August..."

(1) Fagnanus adds, in the same place, note 73, that such Canons who are absent due to studies, in order to enjoy the Indult of receiving the fruits (not the distributions) of their Prebend, should be appointed at an age such that they do not exceed «the twenty-fifth year of their age,» as the Holy Congregation of Councils had previously judged, »and the permission of the Superior must be obtained.» Also, they should study at a public university, and not in small gymnasiums, regarding which one can consult Giraldi, *Ius Pont.*, p. 1, chapter on *specula*, Masect. 787, in the final pages, Cardinal Petra's notes on Const. X. *Bonifacii* III, n. 6, vol. 3, also the recent work of the esteemed Angelus Lucidus, *De Visitatione SS. LL.*, Fol. II, p. 367.

[*Latin ed. p. 523*]

JUBILATION AND FRUITS: 523 • After a year had elapsed since the Angel had presented me with a new decree obtained from the Holy Congregation regarding the granting of a year's leave of absence, and despite my conscience being troubled, I returned this decree without an executive decision, but with a declaration that I would entirely submit to the decisions of the Most Reverend Fathers, if they believed that an absolute indulgence should be granted to me.

Meanwhile, the Chapter members, despite the Angel's repeated requests and protests, proceeded to collect the fruits of the benefice that had been assigned to him, but without presenting any further arguments before the Holy Congregation. The Angel, however, repeated the points he had previously presented in his defense, and in response to the objections raised against him, namely that he had spent several years in the town of N. teaching children, he presented a document from the municipal authorities of that town, stating that that time should be counted as only ten months. Furthermore, the Angel demonstrated, through calculations, that even if all the months and years during which he had been absent from the choir or residence due to a legitimate reason were deducted, he had already completed more than 40 years of service, having begun to serve in the choir in January of the year 1823.

Regarding the deduction of the fruits, it was noted that those who had obtained a legitimate leave of absence could not be accused of negligence or fault, and therefore, the fruits of the benefice could not be denied to them.

Therefore, after the aforementioned points were again presented, the Holy Congregation responded on December 22, 1866, to the questions raised: "To the first: Prolonged; and provide for negligence: To the second: Prolonged; and write to the Bishop according to the matter."

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However, since no canonical reason had been presented by the Bishop that would prevent the execution of the decree, and since nothing further had been presented by the Chapter, and in contrast, new testimonies from physicians had been presented by the Angel regarding his serious infirmity, which completely prevented him from returning to the place of his canonical duties, the cause reached a definitive resolution regarding the doubts.

Doubts: 1. "Whether and in what manner the decrees of the Holy Congregation should be enforced to grant the Jubilee Indulgence in this case." And to the extent that the answer is affirmative.

[*Latin ed. p. 524*]

524. CONCERNING RESTITUTION AND ITS FRUITS. XI. "Whether, and in what manner, the fruits of a Canonry are to be restored in the case of a Canon who has been absent."

RESOLUTION. — The Holy Congregation of the Council decided on March 21, 1868, to respond as follows: To I. Affirmative in all respects. To II. Affirmative, provided that the amount due be determined fairly and justly before the Reverend and Most Reverend Secretary.

FROM WHICH THE FOLLOWING MAY BE GATHERED:

I. An Indult of Absence shall not be granted unless it is established that the one requesting it has served the choir faithfully and commendably for forty years.

II. It is not necessary to determine whether this period has been completed by serving successively in two churches.

III. Decrees of the Holy See, which grant a grace, the execution of which is entrusted to the judgment and conscience of the Ordinary, must be carried out unless a new canonical reason exists that prevents execution (1).

IV. The fruits of the Benefice which were improperly taken and consumed by the ailing Canon must be restored (2).

(1) It is frequently found in the Decrees of the Holy Congregations the clause: "At the judgment and conscience of the Bishop," or even, "At the judgment and prudence of the Eminent Cardinal." And it is frequently found among the canons the words: "according to your prudence," "according to your judgment," "according to your discretion," as Fagnanus also notes in chapter "Do not hinder," concerning Constitution No. 239. The value of these clauses can be considered both in general and in particular. In general, they grant a reasonable discretion, not complete, but directed according to the norms of law. In particular, they grant a greater or lesser, or even no, authority depending on the nature of the matter and the tenor of the Decree. Thus, for example, in Decrees in which it is said: "The Most Holy [See] approves of the grace, at the judgment and conscience of the

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Bishop," and in which nothing definitive is found, the grace is considered granted, to which only the execution of the Decree is lacking in order to have full effect. In this case, the delegate cannot deny the execution; nor do those words, "at the judgment and conscience," grant the authority to deny the execution, unless perhaps another canonical reason arises that, not explained before the Holy See, legally prevents execution. For when the petition of the supplicant has been known in Rome, or as it is commonly said, justified, the prepared execution cannot be delayed by the clause appended "at the judgment," as the Holy Rota said in Lauden. Vicariate, March 29, 1694, before Caprara, and in Recent, decision 667, No. I, part 18, volume 2, and decision 82, No. I, page 9.

(2) And it should be noted here that it is not within the authority of Canons to take the fruits of a Benefice from a colleague unless the authority of the Ordinary intervenes. Nor should one be immediately deprived of all the fruits upon absence, since in the first year of absence, one loses half of the fruits, in the second year, all the fruits, and in the third year, one is deprived of the Benefice, according to the Tridentine disposition.

[*Latin ed. p. 525*]

525 APPLICATION OF MASSES. March 21, 1868. Summary of prayers. The citizens of the town of N. founded a simple Benefice, or Chaplaincy, in their parish church in the year 1535, reserving the right of patronage, and ordered that a parish chaplain "should serve in divine matters in said church, either by himself or by another suitable person appointed by him, and should celebrate one Mass daily in said church, namely, on feast days with singing, and on other days without singing." The endowment of this Chaplaincy was established in bonds, the income of which, after deductions, now amounts to 430 florins. The municipality, however, having been ordered by the episcopal authority to fulfill certain public obligations, and having already been compelled to contribute a third of its assets, which had previously been used for this purpose, was commanded to increase the endowment by an estimated 1581 florins. However, at that time, it appears that the Mass was reduced from daily to two Masses per week. Nevertheless, in the year 1864, the aforementioned Patrons, in a lawsuit before an incompetent judge, that is, a civil magistrate, brought a case for the purpose of ensuring that the chaplain celebrate Mass daily, according to the terms of the foundation. In reality, the civil court, infringing upon ecclesiastical rights, refused to recognize the cause, and, to the detriment of the Patrons, defined the matter in a way that suited the town, and decreed: that the chaplain must fulfill all the obligations stipulated in the law of the foundation, and that, if he neglected them, he would thereby lose the Chaplaincy. The parish priest, the chaplain, compelled to celebrate Mass daily in the parish church, turned his prayers to the Sacred Congregation, stating that, "given the daily celebration and other duties," it was "doubtful" whether

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he was "obliged to apply for Masses; and for this reason," he had "repeatedly refrained from making applications for Masses," and he begged that he might be absolved, and that a dispensation might be granted to him from the obligation to offer Masses.

[*Latin ed. p. 526*]

526 APPLICATION OF MISSES. "It is to be understood that the effect of the application extends into the future." "However, the Misses which had not been applied reached the number of eighty." OBSERVATIONS FROM THE OFFICE. — Three matters were brought up for consideration by the Office: 1° Whether a reduction of Misses had taken upon itself the law by the disposition of angels and have not kept it; 2° Whether, according to the foundation documents, the chaplain was obligated only to celebrate, and not to apply, the Misses; 3° What should be decided regarding past omissions. Regarding the first point; although the decree concerning the reduction was not presented, it was not found to be lacking in supplementary evidence obtained, especially from the acts of the Holy Visitations, in which it was stated that the chaplain was obligated to celebrate two Misses each week. Regarding the second point: it was observed that the practice of the Holy See was that the obligation of application should be understood to be connected with the obligation of celebration, unless the contrary is demonstrated; and examples of this practice were cited, namely, in the case of Tinnen, in the Application of the Sacrifice of August 18, 1668, Lib. 26 Decr., fol. 61, where it is written: "From a testamentary disposition made by a pious testator, it was found that a certain chaplainship was founded, with the obligation for the chaplain to celebrate the Holy Sacrifice each Sunday and on other festive days, without any declaration being added, for whose benefit the Sacrifice should be applied; therefore, the Bishop of Tinnen petitioned through the Holy Congregation to declare whether such a Sacrifice should be applied for the soul of the testator, or at the discretion of the chaplain, as he had hitherto understood it to be." To which the Holy Congregation responded: "The Sacrifice is to be applied for the soul of the testator." Also, in the case of Corneiana, on June 23, 1725. Indeed, in the present matter, arguments were presented to support this connection: for although the word "applying" was absent from the foundation document, the custom of application was nevertheless present, and evidence of this custom was found in the very instructions given to the Patrons to increase the endowment of the chaplainship, and in the obtained evidence of the reduction of Misses; and it was also stated that the chaplain himself, in the past, had followed this custom. Regarding the third point, it was observed that good faith was lacking in the present matter, but reasons were

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presented which...

[*Latin ed. p. 527*]

APPLICATION OF MISSES. 527. The purpose was to determine whether a chaplain, advanced in years and diligent, deserved some form of dispensation.

DECREE.—The Sacred Congregation of the Council, after due deliberation and prayer, decided on March 21, 1868, to respond as follows: "Having celebrated 80 Masses, and having undergone some salutary penance, as prescribed by the Bishop, for the sake of obtaining the grace of absolution: henceforth, the chaplain shall be required to celebrate and offer two Masses each week in the designated church."

FROM WHICH WE MAY GATHER: I. Ecclesiastical institutions, such as chaplaincies, which involve the obligation of celebrating Mass, should also be understood to include the obligation of offering Mass, unless the contrary is established. II. The opinions expressed by a lay judge in ecclesiastical matters should not be given any weight.

DISPENSATION FROM IRREGULARITY. January 11, 1868. Summary of the case. The Archbishop N. presented to the Congregation the case of a priest, C., serving a rural church, who had been afflicted with a hemorrhagic apoplexy; as a result, the left side of his body remained without strength; however, having employed medical remedies, he had largely regained his strength, except for his left hand, which remained completely weakened. Nevertheless, this priest, feeling himself largely recovered, attempted to celebrate Mass, performing all the liturgical actions with only his right hand, without excluding the breaking of the sacred Host into three parts over the paten. When the Archbishop learned of this, he rebuked the priest and suspended him from celebrating Mass, considering him irregular. Now, the same priest, aware of the impropriety of his actions, desires, for the sake of his piety and the benefit of the people of the town, who have few priests, to celebrate Mass as before, with his right hand.

[*Latin ed. p. 528*]

528 | i. OF DISPENSATIONS FROM IRREGULARITY. The aforementioned Archbishop testified that, when he was still a young man, he submitted himself to the examination of the Master of Ceremonies, who gave testimony that he could perform all the sacred ceremonies accurately with his right hand alone. OBSERVATIONS FROM THE OFFICE. — It was noted that it was surprising that the priest, C., could perform all the rites accurately using only his right hand, since from the elevation of the Holy Host to the complete purification, there are many actions that, in order to be properly performed, require both hands; however, this seemed to be tolerated by the Master of Ceremonies, and to the unfortunate condition of the priest, if the acquired dexterity is confused with the exact execution. It was

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further noted that this concerned a priest who had already been ordained to the priesthood, who was 47 years of age, and who, lacking a dispensation, would be deprived of the special assistance that is provided to priests from the Sacrifice of the Mass, and who had become irregular through no fault of his own; nor should one fear scandal among the people, since the faithful of that region had already seen him celebrating without any admiration; nor should there be any danger in performing the sacred rites, since the priest had acquired the ability to perform them using only his right hand. In addition to these circumstances, and with due regard for the benefit of the Church, and considering the small number of priests in that town, and especially in the rural church to which the priest ministered, where it would be necessary for him to call another priest from another town to assist him at his own expense, it was noted that the Holy Congregation had repeatedly granted dispensations in such cases. The following examples were cited for reference: in Iesi on November 23, 1864, in which, in favor of a priest who had been completely deprived of the use of his left arm due to paralysis, a decree was issued: "Provided that the needs of the people are present, and that he celebrates with the assistance of another priest or deacon, for the granting of a dispensation and habilitation, with the understanding that this is communicated to the Most Holy." Also, in Litomerice on December 17 of the same year, in which, in favor of a priest who had lost his left arm accidentally, a decree was issued: "Provided that the needs of the people are present, and that he celebrates with the assistance of another priest or deacon, for the granting, at the discretion of the Bishop, of a dispensation and habilitation, with the understanding that this is communicated to the Most Holy." Also, in De-Linares on July 8, 1865, in which, in favor of a priest to whom his left arm had been amputated,

[*Latin ed. p. 529*]

DISPENSATION FROM IRREGULARITY. 529. A rescript was issued: Provided that he celebrates in the private chapel (oratorio) with the assistance of another priest or deacon, for the sake of obtaining a dispensation and a temporary remedy, at the discretion of the Bishop, after having spoken with the Most Holy [Father]. It was noted, however, in the present matter, that since the rural church priest, C., was addicted [to something], he might perhaps not have a private chapel.

RESCRIPT. — The Sacred Congregation of the Council, after considering the prayers, decided on January 11, 1868, to issue a rescript: At the discretion and conscience of the Archbishop, and if the current state of health does not worsen, after having spoken with the Most Holy [Father].

FROM WHICH YOU MAY GATHER:

I. For legitimate reasons, it is not uncommon to grant a dispensation

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from irregularity to a priest who has lost the use of his left hand, provided that certain conditions are observed.

II. These same conditions are usually determined with regard to the assistance provided; especially considering the nature of the defect, and the circumstances of the place where the priest performs the sacred rites.

FROM THE CONGREGATION OF BISHOPS AND REGULARS. CONCERNING CONCORD.

March 27, 1868. Summary of the case. Titius, in his will in the year 1679, bequeathed the usufruct of his property to his wife; but he bequeathed the ownership to the one who, from the descendants of his brother Charles, would be a priest, or at least a subdeacon: he imposed upon this person the obligation of celebrating, or having celebrated, four Masses each week. If the descendants of Charles were absent, under the same conditions, he called upon another family, that of a certain Francis: but if that family were absent, he called upon a certain heir, a sodality dedicated to the Most Holy Sacrament.

[*Latin ed. p. 530*]

530 CONCERNING HARMONY. Designated: The testator also decreed, through testamentary clauses, that during the interval of time in which no suitable person remained among those named, the same Sodality should receive the usufruct of the inheritance, subject to the obligation of four Masses; however, that whenever a Priest, or at least a Subdeacon, should appear among those named, the same Sodality would be obligated to restore the inheritance to him. The inheritance now amounts to 3721 scudi, or 20,000 Italian lire. However, the first family called by the testator soon ceased to exist, and immediately a second family intervened, whose descendants have held the inheritance until now; indeed, even though, at certain intervals of time, there were no descendants actively holding the inheritance, they nevertheless held it, so that the Sodality of the Most Holy Sacrament never received the usufruct of the inheritance. In the year 1859, upon the death of the last Priest of that same family who held the inheritance, and in the absence of another suitable person to hold it, according to the testator's will, the Sodality petitioned for the inheritance, but this was denied by the descendants of Francis, and the matter was brought before the civil court, where the Sodality was defeated on the grounds of a certain pretext of civil law that harmed the Church. However, the parties involved, through an agreement, finally came together to reach a certain settlement, which stipulated that the descendants of Francis would give a portion of the said inheritance, that is, 1256 scudi, to the parish church in which the Sodality of the Most Holy Sacrament was established, with the obligation of celebrating 108 Masses each year, and that whatever

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remained of the inheritance would pass into the free ownership of the aforementioned descendants. This settlement, having been presented to the Holy Congregation, and with the customary formalities observed, the following observations were made: OFFICIAL OBSERVATIONS. — It was noted that civil law had abolished entailments and hereditary substitutions, and therefore, those holding an inheritance by title of entailment could freely alienate the inheritance; that if pious bequests were connected with the inheritance, these should remain valid. It was also noted that, according to the practice of the Holy Congregations, a distinction should be made between two questions: namely, it is most important to determine whether the ownership of the inheritance resides with...

[*Latin ed. p. 531*]

ON AGREEMENTS. 531 the Church, or rather, by outsiders: for in the former case, when there is no transfer of property to the Church, but the property is already held by the Church, there is no trust or substitution; therefore, the inheritance belongs to it: but this cannot be said if the property is with others, which eventually may become the property of the Church: in this case, it seems rather to be a trust, and it may be subject to civil laws abolishing trusts: however, the pious legacy always remains firm, especially if it is connected with the inheritance. Certain examples were cited to confirm these points, namely, the case of Verulana concerning a substitution before the Sacred Congregation of Bishops and Regular Canons, discussed on March 8, 1861; in this case, an inheritance was left in 1770 to a certain Anthony, with the obligation to celebrate as many Masses as the Ordinary determined: but when the line of Anthony ceased, the testator substituted an heir with the same obligation of Masses to the Church of N., which was administered by the Cathedral Chapter. Since Anthony had many sons, and the hereditary property was divided, the obligation of the Masses was largely neglected, and the Chapter placed a mortgage on the same property. The question then arose whether the same property remained bound by the trust, since, after the Napoleonic Codes, certain laws were subsequently approved that released trust property from this bond: but after the distinction indicated above was made, and the doubt proposed: "How can it be determined whether the property was released from the bond of substitution in this case?" The Sacred Congregation responded: affirmatively, provided that the obligations of the Masses were secured by a mortgage. Another example was cited in the case of the Verulana Chapel, which was discussed several times before the Sacred Congregation of Councils: in this case, the testator had named a certain chaplain as heir; he also wished that his brother and his descendants should be the usufructuaries and administrators, with a very light obligation of celebrating five Masses each year, and maintaining the sacred furnishings: there was much debate as to whether, since the testator

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had named a chaplain as heir, all the property remained bound in favor of the Chapel, or rather, whether it was a mitigated trust: finally, the Sacred Congregation of Councils resolved the matter on March 20, 1862, in favor of the usufructuary descendants, who invoked the laws dissolving trusts: but with the added clause that the Bishop should ensure that everything is inscribed.

[*Latin ed. p. 532*]

532 CONCERNING AGREEMENTS. Regarding hereditary goods, a hypothec [mortgage] was established in favor of the Chapel for the fulfillment of obligations. Also, in Ariminen, on December 14, 1860. It was noted in the present matter that, although those descending from the line mentioned in the deed possessed the inheritance, nevertheless, according to the will of the testator, the true possessor by right was to be the Sodalitas [religious society] since the year 1859, and therefore, it was within its power to alienate the goods in good faith, according to the civil laws of that place, which grant this faculty to the legitimate and actual possessor. With these and other considerations, the doubt is to be resolved: "Whether and how a proposed transaction can be approved in this case."

RESOLUTION. — The Sacred Congregation of Bishops and Regulars, having considered the matter on March 27, 1868, judged that there is a basis for approving the transaction if it is carried out with the Most Holy [Father].

FROM WHICH YOU CAN GATHER:

I. If there exists a civil law that allows for substitutions of fideicommissum [entail], then several questions can arise if the fideicommissum is mixed with a pious cause.

II. To resolve these questions, the following should be kept in mind as general criteria: Whenever a pious institution or church is named as the heir by the testator, and descendants from a certain family are designated as usufructuaries, then the hereditary goods should remain with the pious institution or church, unless it should appear to be almost futile to name the church as the heir, as if it were given merely to satisfy the fideicommissum.

III. However, if a fideicommissum is established, which, ultimately, should reside in the pious institution or church in the event that the mentioned line fails, the right granted to the church should not prevent the heirs from alienating the hereditary goods, provided that the civil law permits such alienation of these goods, even though such alienation may lead to the ruin of honest and noble families.

IV. In any case, however, the pious legacies, which are connected with

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the fideicommissum, must remain intact.

[*Latin ed. p. 533*]

533 CONCERNING A PENSION. March 20, 1868. Summary of the case. A monk, having professed and initiated into the priesthood, while residing in the Monastery of N., was afflicted by a stomach ailment and requested from the Sacred Congregation and the Royal authority permission to reside outside the monastery for a time. As the illness persisted, he subsequently requested a permanent dispensation from his vows and a pension from his Order, which would serve in place of his sacred patrimony. The Sacred Congregation, in the year 1850, granted the requested dispensation, the execution of which was entrusted to the local Ordinary to whom the monk had been subject before becoming a monk, with the proviso that provision be made for a sufficient patrimony, and that this decree be put into effect within six months; otherwise, the decree would be null and void. However, as the aforementioned monk was unable to find a sufficient patrimony within that period of time, he obtained further extensions, until finally, the Order itself promised a pension of 60 scudi, with the condition that it would be provided until his needs were met, which was sufficient to establish a certain title of the Order; this pension, having been obtained and confirmed by a decree of the Sacred Congregation on August 1, 1851, with these words: "A sum of 60 scudi, in place of a patrimony, is to be paid from the revenues of the Monastery, until the monk is provided for, which he began to receive from the Monastery of N." Due to political changes, with several monasteries of the same Order being unjustly suppressed and their goods confiscated, the Monastery of N. refused to pay the full pension, for two reasons: 1° that although the Monastery of N. had obligated itself to pay the pension, such an obligation would burden the other monasteries; 2° that the pension had been granted with the condition that it be paid until the monk was provided for; but since the monk had obtained another ecclesiastical pension of 30 scudi in 1853, due to his studies at the Archgymnasium, the curriculum of which he completed with distinction, it was said that the Monastery was no longer obligated to pay the full pension. We omit the first point of the question, which consists entirely of particular facts, and, concerned with the second point of the question, we present here what pertains to the matter according to official doctrine.

[*Latin ed. p. 534*]

534 CONCERNING THE PENSION. OBSERVATIONS FROM OFFICE. — It was certainly noted that the constitution regarding the patrimony contained a clause stating that, generally speaking, a partial substitution should be carried with it, whenever the cleric subsequently obtains a benefice which is not equivalent to the patrimony established; this is also in conformity with a certain Resolution of the Sacred Congregation of

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Bishops and Regular Canons in Senogallien, on June 27, 1705, as reported by Zamboni, volume 5, page 57, number 18. Now, having admitted this substitution, in the present case, even with the pension which the monk, living outside the monastery, had obtained as a reward for his studies, it must be considered whether such a partial commutation or substitution takes effect automatically, or rather, whether it requires the authority of the Church to release the portion corresponding to the original pension. And, among other things, the doctrine transmitted by Honorante in *Praxi Trib. Vicar.*, page 46, was cited, where he wrote: "He who holds a patrimony established under this condition, until and as long as he has been provided with an ecclesiastical benefice, or otherwise has means to support himself comfortably, " in which case, the patrimony reverts to the founder without "any declaration, and he is not said to be despoiled or deprived of the title, " even though he acquires a benefice or goods, but the patrimony "remains as before, notwithstanding the aforementioned condition, until "the Ordinary makes a substitution, thus declared the Sacred Congregation on "July 12, 1687, etc." With these and other considerations in mind, the purpose is to resolve the doubt: "Whether and in what manner there is a place for the solution of the pension, section 60, in "this case." RESOLUTION. — The Sacred Congregation of Bishops and Regular Canons, having knowledge of the matter, on March 20, 1868, decided: Affirmatively, and that the pension is to be paid by the monastery (N.) in the amount of sixty scudi concerning the past; but with regard to the future, there is a place for the deduction of the ecclesiastical pension substituted by virtue of the present Rescript, as a part of the patrimony, with the clauses stated in the Rescript of August 1, preserved: and furthermore.

[*Latin ed. p. 535*]

ON PENSIONS. 535 From which it may be gathered: I. Religious priests, even if they legitimately leave their own order, remain subject to the penalty of suspension if they do not have a suitable provision (1). II. A suitable pension, paid by the monastery, can serve in place of a provision, even if it has an attached clause, until a provision is provided. III. With the occurrence of a new ecclesiastical provision, the obligation to pay the pension in the monastery does not cease, unless ecclesiastical authority intervenes, which substitutes the new provision for the previous one, either wholly or in part.

ON THE REDUCTION FEE. February 2nd and September 13th, 1867. Summary of the case. Among the goods possessed by the pious foundation was a certain rural house, which the administrators of the pious foundation decided to grant in perpetual emphyteusis. This rural house had been valued at 120 scudi. With publicly posted edicts, according to custom, inviting those who wished to acquire it, Titus offered an annual fee of 12 scudi, and thereby requested Apostolic approval with the grace of omitting

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the remaining bids, which are called the twentieth and sixth experiments (2). This was obtained with the permission of the Apostolic See. However, when the Ordinary ordered the execution of the rescript, and Titus insisted on the stipulation in the instrument, a serious difficulty arose; for one of the administrators of the pious foundation reported that prayers had been offered to the Holy Congregation to obtain the rescript, while the same rural house was to be valued not at 120 scudi, but at 192 scudi.

(1) The reason given may be recalled from Volume L, page 358 and following.

(2) It is necessary to recall the Constitution of Benedict XIV, which establishes the norm for these contracts concerning ecclesiastical property, as well as the Decrees of the Holy Congregation of Bishops and Regular Canons. See Volume L, page 25, and Volume H, page 439. Also, the case mentioned therein on page 418 may be recalled.

[*Latin ed. p. 536*]

536. REDUCTION OF THE CANON. Since these things were so, the Ordinary ordered a new assessment to be made, by virtue of his office, which assigned a value of 184 scudi to the aforementioned house; therefore, with newly affixed public edicts, the house of *novae* was put up for auction, and seven bidders were found, the highest of whom offered 18 scudi. Meanwhile, Titius was acting to obtain the house, not by the title of *emphyteusis*, but by offering a purchase price of 300 scudi. When he who had been the highest bidder among the auction participants learned of these dealings, he refused them, demonstrating his willingness to purchase the house for 350 scudi in this case. When the Sacred Congregation received all of these matters, on July 4, 1864, it responded: "Having considered the nullity of all actions undertaken up to this point concerning the *emphyteusis* contract, and the prior report of the preceding Rescript... let the Edicts for the *emphyteusis* be affixed again, for a canon not less than 18 scudi, and let the Ordinary be informed of the result, and this Sacred Congregation, with its approval, favors the higher and better offer. Therefore, the house was again put up for auction, and two individuals bid on it, one offering a canon of 20 scudi; the other, who is Titius, offered 20 scudi. Regarding the matter presented to the Sacred Congregation, a Rescript was issued: "The Most Holy Father approves the decision of the Ordinary... for the requested *emphyteusis*, favoring (Titius) for an annual canon of 20 scudi, in all respects according to the requests, saving the right of the twentieth and sixteenth [parts]; mortgaged, etc. Having obtained this Rescript (it is not certain whether an order for execution was issued), Titius did not proceed with the Stipulation! Instrument, but instead presented new petitions to the Sacred Congregation for a reduction of the offered canon, arguing that there was an enormous injustice; moreover, he stated that he would have to expend even more money on the restoration of the same

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house, and that he was a poor father of a numerous family. Having received these petitions, the Ordinary was again requested for information and his opinion, and, after hearing all those who had an interest, and after a prior assessment by experts, he was to report on the alleged injustice. With these and other details, the matter was placed before the Sacred Congregation for deliberation, according to custom, before the full Congregation. A synoptic discussion followed. FROM WHAT WAS NOTED *EX OFFICIO*. –It was recalled at the beginning the doctrine that the Most Reverend Aloysius Trombetta expounds in his recent work.

[*Latin ed. p. 537*]

REDUCTION OF THE CANON. 537. Rules of Practice concerning contracts, etc., chapter 3, page 83, paragraph 33 and following, in which it is stated that the offers made by bidders are binding, so that, after the schedule of offers has been submitted, the bidder cannot repent, although, on the contrary, the Church or pious institution can withdraw; therefore, even if the Apostolic approval has not been ordered for execution, nor the instrument completed, the bidder is not free from the obligation to enter into the agreement. While this obligation is in force, the following principles, which are usually invoked when, after a complete emphyteutic contract has been concluded, the emphyteuta complains of the excessive amount of the canon, as in the case before the Sacred Roman Rota in Camerino, are applicable to the reduction of the canon or the rescission of the contract. The matter of the reduction of the canon was discussed before the Sacred Rota on March 15, 1837, before De Cursiis, and in Praenestina, the matter of the reduction of the canon was brought before the Sacred Congregation of Councils on January 28, 1865 (1). In the present case, considering all the circumstances, it appears that there is at least some degree of injury; and many other factors are present, for which, at least from the standpoint of equity, a reduction of the canon is suggested.

OBJECTIONS TO THE REDUCTION OF THE CANON – However, as noted in the cited decision of the Sacred Rota in Camerino, number 12: "It is true that it is just to assist a seller who has been injured or deceived; but the same justice does not suggest that aid should be given to those who, after having obtained the award of the goods to themselves, as the highest bidder, then, under the pretext that they have been deceived by the heat of the auction, demand a reduction of the canon, causing a manifest loss to the sellers, who in this way lose the benefit that the same auction could have brought them (2)." This argument seems even more applicable in the present case, because it cannot be said that Titius was carried away by the heat of the auction, since (1) We cited this reason in Volume II, page 81. (2) Mastrofini also noted this in his Italian work, "Della maniera di misurare la lesione enorme nei contratti," chapter 16, paragraphs 273 and 274; this author, although he teaches that there can be a place for injury in

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a contract for the sale of imitation goods, nevertheless notes: "The proofs of error in the price must be very evident; since it is presumed that the price indicated in the estimate and the amount proposed in the imitation correspond closely to the true price at the time of the contract, and he adds: 'When several imitators compete, the price is often greatly increased; but this happens in order to achieve the objective; therefore, there is no room for complaints of injury.'"

[*Latin ed. p. 538*]

538. CONCERNING THE REDUCTION OF CANONS. This matter had been under consideration for a long time, and in the final bidding, the bidders were granted ten days to deliberate, according to the general decrees of the Sacred Congregation. In these same documents, it was noted that the Sacred Congregation had not granted a reduction of the canon in Tusculum on August 8, 1863, although the property had been put up for auction, its estimated value being 113 scudi, and the canon had reached 18 scudi; nor in Praenestina, cited above, where the property was estimated at 102 scudi, and the canon had risen to approximately 10 scudi. In the present case, however, there was a significant dispute among the bidders, as a rural house was located on a certain road, which at present could be considered very useful for conducting business. Considering these and other circumstances, the intention was to resolve the following question: "Whether and how approval should be given to a reduction of the canon in this case." RESOLUTION. – The Sacred Congregation of Bishops and Regulars, having considered the matter on February 1, 1867, decided to respond: negatively in all respects; and, considering the particular circumstances, it granted (Titius) the opportunity to withdraw from the obligation of entering into the aforementioned emphyteusis contract within twenty days. After this Resolution, Titius requested and obtained a new hearing, and proposed that, setting aside the question of injury, the house itself be sold to him for the price of 300 scudi, or even more, since negotiations on this matter had already been initiated with the Ordinary, and this could also be of greater benefit to the charitable institution. Therefore, with the customary formalities observed, the following questions were proposed: I. "Whether and how one should withdraw from the Resolution of February 1, 1867?" and II. "Whether and how approval should be given to the sale for the price of 300 scudi in this case?" The Sacred Congregation, on September 13 of the same year, decided to respond: Regarding I and II, with a prior withdrawal from the decisions based on newly presented arguments, approval is given for the sale for 300 scudi, provided that a written agreement is concluded within two months, with all expenses borne by the buyer, and with the provision that the administrators of the charitable institution selling the

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property may invest the proceeds according to the wishes of the Ordinary.

[*Latin ed. p. 539*]

REDUCTION OF THE CANON. From 539, WHEREAS IT IS GATHERED: I. In a properly conducted auction of ecclesiastical goods, the bidder who has won by offering the highest price is bound to fulfill the contract. II. Nor can the same bidder appeal on the grounds of injury after a properly conducted auction; even if he has offered a price that appears to be excessively high. III. For bidders, freely competing, are more likely to strive for the acquisition of something useful to them, rather than for the actual value of the same thing. EX, CONGREGATION OF THE SACRED RITES. OF THE DIACONAL SERVICE IN PONTIFICAL DAYS. ON THE FEAST OF THE LORD'S SUPPER. On February 13, 1868. SUMMARY OF THE FACTS. In the Metropolitan Church, on the Feast of the Lord's Supper, with the Most Reverend Archbishop presiding, concerning the procession of the Blessed Sacrament, which has been observed from time immemorial, it is the custom that the Deacon and Subdeacon who minister at Mass also remain to minister in the procession, while those who have served at the Archbishop's seat depart. Only three years ago, the Archdeacon, to whom, according to the provisions of the local Ceremonial and customs, the first duty of diaconal service at said seat belongs, believed that he was also obligated to perform his office at the altar in the distribution of the chalice with the Blessed Sacrament and in the procession. However, because of this, a not insignificant controversy arose in the Chapter, and the following occurred: in the year 1865, the same Archdeacon, who was present at *Zvolen*, secretly put on a stole under his dalmatic in the sacristy; and, without any prior indication of his intention, excluding the Deacon of the Mass at the beginning of the procession,

[*Latin ed. p. 540*]

540 OF DIACONAL SERVICES IN PONTIFICAL CEREMONIES, ETC. The office of administering the chalice with the Most Holy Sacrament, and other attendant duties, was performed. In the following year, 1866, while preserving the rights of all, the matter was arranged in such a way that the Archdeacon, along with an assistant, would perform the appropriate vestments, and the Archdeacon himself would be vested in this manner: namely, they would both, along with the Deacon and Subdeacon, retire from their proper places to the sacristy, so that each might divest himself of his previous attire and change into the garments appropriate to his office: the former into those of their own order, the latter into those appropriate to the diaconate; but this method of procedure was not deemed suitable, for a lengthy delay ensued, not without the admiration of the people, since the sacristy is quite distant from the altar, and four persons had to divest themselves and dress again. Finally, in the year 1867, striving

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to avoid this inappropriate delay, and persuading himself that he did not need a stole in this case, the Archdeacon, wearing only the amice, rochet, and dalmatic without a stole, performed all the duties of his office. Since the aforementioned controversy could not easily be resolved from the *Caeremoniale Episcoporum*, the chapter decided to present the question to the Sacred Congregation of Rites; and, with the express permission of the Most Reverend Archbishop and by order of the chapter, the Archpriest, John Baptist Daneri, performing the duties of Master of Ceremonies, proposed the following eight questions to the Holy Congregation: I. "Whether it is permissible for the Deacons and Subdeacons who have performed their duties in a Pontifical Mass on a weekday during the celebration of the Holy Sacrifice of the Mass, after those who were assistants have retired to their seats, to remain with the Archbishop in the procession as ministers and assistants, either according to a probable interpretation of the ancient *Caeremoniale Episcoporum*, or according to an immemorial custom." II. "But if said observance is not at all permissible, should the Deacons and Subdeacons, after the Deacon and Subdeacon of the Mass have retired, remain only on the sides of the Prelate?" III. "If only the assistants remain at the seat, is it sufficient for the more worthy of them, wearing only a dalmatic over the rochet, without a stole, to present the Most Holy Sacrament to the Archbishop and to receive it from him?" IV. "But if that is not sufficient, is it sufficient to wear a stole over the amice and rochet, under the dalmatic?"

[*Latin ed. p. 541*]

SERVICES OF THE DEACON IN PONTIFICAL FUNCTIONS, ETC. 341

V. "In this case, at what time should the stole be put on, whether when he first prepares for Mass, or immediately before the procession? VI. "If the stole alone is not sufficient, and the complete diaconal vestment is required (as was decreed in Portugal on September 17, 1785), at what time should the deacon, who is to wear the more elaborate vestments, put on the amict, alb, stole, and dalmatic, whether when he first prepares for Mass, or immediately before the procession? VII. "If it is necessary for the first of these deacons to wear the complete diaconal vestments, should the other assisting deacon also put on the alb at the same time? VIII. "If all the canons, except the assisting priest, who are serving at the altar near the celebrant, are to remain standing, which deacon should offer and receive the Most Holy Sacrament, the Deacon of the Gospels, or the deacon who was assisting on the right hand of the altar?

OBSERVATIONS. Several learned observations were presented to the Sacred Congregation by the Metropolitan Chapter, and we give here a summary of them, along with other observations which the Most Reverend Master of the Ceremonies expressed in a written opinion.

OBSERVATIONS OF THE CHAPTER. – These observations can be re-

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ferred to what the Chapter had previously stated: beginning with the general question of the use of the stole in the handling of the Most Holy Sacrament, it noted that, except for an accidental necessity, and except for the special privilege of the Holy Pontiff, under whose authority a Subdeacon, according to the most ancient custom, carries the Most Holy Sacrament from the altar to the Pontifical throne, all the ceremonial books, in general, either expressly mention the stole or imply it from the general rule; and to confirm this, the Decree in Portugal, dated September 17, 1785, is cited: in which two doubts of the following tenor were proposed to the Sacred Congregation: "I. Whether the doctrine of a certain anonymous author should be accepted, which asserts that, in order to remove the Most Holy Sacrament from its higher throne, three priests are present in the sacristy, namely, one wearing the amict, alb, stole, and cope; while the other two assistants wear only copes over their cassocks."

[*Latin ed. p. 542*]

542. CONCERNING THE SERVICES OF DEACONS IN PONTIFICAL CELEBRATIONS, ETC. » The deacon who assists should lay down the ostensorium (note this), and should not wear » the stole, because (according to the Author himself) he is clothed in a raincoat. H. » Whether it is necessary for two deacons assisting the Bishop in the most solemn procession of the Body of Christ, and on the Feast of the Lord's Supper, to be vested in an alb and dalmatic? There is reason for doubt, because the *Caeremoniale Episcoporum*, book 2, chapters 23 and 33, does not mention the stoles. » To this, the Sacred Congregation responded: To the first question, negatively; and in accordance with the opinion of the Master of Ceremonies, namely, that either both assisting deacons should wear a dalmatic and a tunic, or another priest should be present to place and remove the ostensorium with the Most Holy Sacrament, wearing a cope and stole. To the second question, affirmatively, at least with regard to the first deacon assisting in all functions in which the Most Holy Sacrament is to be placed or removed. From the tenor of this decree, it appeared that this was the intention of the Sacred Congregation, by which the rule concerning the necessity of the stole is confirmed (1). With these preliminaries, the same chapter inquired: Which of the three deacons, who assist the Bishop in performing pontifical functions, according to the prescriptions of the *Caeremoniale Episcoporum*, in the procession on the Feast of the Body of Christ, or on any other day with the Most Holy Sacrament, should regularly offer and receive it as a minister? However, a distinction was made between the ceremonies established for the sake of honor and those for the sake of the sacred order. (1) Also cited was a decree referring to a new work written by Mueblbauer, *Decret. S. B. C.* under the word "stole," which decree is not found in the Gardellin Collection, and which reads as follows: "To the Fathers, I explained from the pontificate of » Clement VIII. the abuse introduced in

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the » Pontifical Chapel, namely, that the first » Cardinal Deacon assisting on Sunday during » Advent in the Pauline Chapel should receive » from the hands of the Pope the custody of the » Most Holy Sacrament without the orarium (that is, the deacon's stole). Therefore, the Sacred Congregation ordered » that in the future, as soon as the Master of » Ceremonies and the Pope arrive at » the place where the Sacrament is to be » placed in the hands of the Cardinal Deacon, » a violet stole, in the manner of a deacon, » should be placed upon his shoulders; and in » this way, such an abuse was ordered to be » completely revoked from the practice of the » Apostolic ceremonies." » December 1, 1657. » Indeed, in the Pontifical Chapel, this decree is observed: However, it should be noted that the Cardinal Deacon, who receives the Most Holy Sacrament after that procession from the hands of the Roman Pontiff, is not wearing the sacred vestments, and the stole, in the manner of a deacon, is placed upon him by the Master of Ceremonies over the cope.

[*Latin ed. p. 543*]

SERVICES OF DEACONS IN PONTIFICAL CEREMONIES, ETC. 543: Service; that is to say, among the ceremonies to be performed for the Bishop, either by reason of jurisdiction or by reason of his office, and by reason of the priesthood, it is observed that the first type of ceremony should be performed by those who are canonically obligated, who are considered to be superior in external dignity; the second type, however, by lesser priests or canons: for the ministry of the altar elevates the dignity of the ministers themselves, so that they need not strive for external displays of dignity. Therefore, two assistants should serve the Bishop at his seat, wearing the dalmatic of deacons by reason of his office, and they should not involve themselves in the service at the altar. This was made clear by the Ceremonial of Bishops; especially from the Roman Ceremonial, which is the source of the former, in which these words are stated clearly: "The senior deacon, that is, the one who read the Gospel (for he is the one who ministers to the Pontiff), says, etc." From this, it was concluded that such a deacon should be held in higher regard in the performance of the sacred ministry; and indeed, he should properly wear the diaconal vestments, and, assisted by a subdeacon, he should prepare the Bishop for the celebration, adorn him with the mitre, and immediately precede the procession of the assisting priests before the Bishop, leaving the other two assisting deacons to perform the duties of honor: indeed, the same deacon and assisting priest should be in the middle when the Bishop begins the Mass, with the deacons seated behind the throne, and if the communion of the clergy is to be given, he should be the first to receive it, followed by his associate, the subdeacon. To this deacon who reads the Gospel, it was observed, are generally assigned signs of precedence and honor above the others, as in book 3, chapter 4 and chapter 14, title 1, chapter 14 and 54: and from this, those

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things are derived which are established in the Ceremonial of Bishops, book 1, chapter 8, number 5, namely: "Regularly, when the Bishop is at the altar, he is served by the Deacon of the Gospel; but when he is at the seat, the Assistants serve him, unless necessity dictates otherwise, as after the purification of the altar, because then the first deacon assisting will place the biretta and mitre upon him, while the Deacon of the Gospel is then occupied with the thurible." And for no other reason does it seem necessary to repeat the response given by the Holy Congregation in Cesena, on April 19, 1868, to the question V, whose formula of doubt was as follows: "In the solemn ordination, the Roman Pontifical does not explain who should..."

[*Latin ed. p. 544*]

544 OF DIACONAL SERVICE IN PONTIFICAL FUNCTIONS, ETC. » to be ministers ready to serve the Bishop; but he speaks indistinctly of ministers. The question is asked: whether, when the Bishop approaches from the Chair to the Altar for the conferring of Orders, two Deacons assisting should attend him, since this action is not part of the Mass; or whether, rather, the Deacon of the Gospels and the Subdeacon, because the Bishop has the Ordinations in the Altar, to which the Holy Congregation answered: it is more fitting that the Deacon of the Gospels and the Subdeacon minister; because they are those who minister, while the other Deacons are merely called assistants. Having made these general observations, the one who wrote this on behalf of the Chapter expressed his opinion regarding the interpretation of the text *Caeremonialis Episc. I. 2 c. 23 n. 12*, where the *Caeremoniale*, indicating which of the Deacons should be present, in the *Fer. V. in Coen. Dom. pro incipienda processione*, to carry the Most Holy Sacrament to the celebrating Bishop, uses these words: "The assisting Deacon, and no other." I observed very carefully that the term "assisting" is suitable not only to designate a special title, but also the action itself; and he argued that the term "assisting Deacon" should designate the Deacon of the Gospels; first, because he is the only one, while there are two Deacons assisting at the altar; second, because he is the one who assists while the Bishop, having performed the thurification, rises to ascend, in much the same way as the Deacon assists the Bishop as he ascends to the altar at the beginning of the Pontifical Mass; third, because below, in the same passage, it is added: "The assisting ministers raise the thuribles from here and there"; but the proper name of ministers is Deacon and Subdeacon; and fourth, because elsewhere it should be understood that the *Caeremoniale* should be interpreted in the same way, as when it says of the procession on the feast of the Body of Christ, "The assisting Deacon from the right will approach the altar"; also, in *Parasceve* n. 32, "The Deacon of the Gospels..." receives the Most Holy Sacrament from the hand of the Bishop. With this established, it is easily understood who are excluded by the aforementioned words:

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"and no other"; namely, other Deacons, or a Priest wearing the cotta and alba, who is admitted to the customary Benedictions as in the cited case from Portugal; and any Chaplain or Sacristan, as the response was in Mexicana on December 16, 1828, for *Feria V I. in Parasceve*, where the Holy Congregation decreed: "The Chaplain excluded, the chalice is taken out and placed by the Deacon, according to the Rubrics"; and in Angelopolitana on September 11, 1847, it is the duty of the Deacon, and not of the Sacristan.

[*Latin ed. p. 545*]

545 OF DIACONAL SERVICE IN PONTIFICAL CELEBRATIONS, ETC. This was confirmed by the opinions of certain authors: thus, it was noted by Paridi de Crassis, who represents the common practice of the city of Rome before the Pontifical Ceremonies of the Council of Trent were publicly promulgated; it was also noted by Michael Bauldry, the commentator on the Rubrics, who interpreted the aforementioned words as follows: "The Deacon of the Gospels, and no other"; and after a few words: "The assisting ministers, here and there, elevate the preceding cloths, namely, the Deacon and Subdeacon, followed by two others in their order." Having considered these matters, he noted that, since not all of the rites of this sacred function are individually specified in the Ceremonial, various observances have arisen, and he enumerated them as follows: First, the observance that is more in conformity with the Roman Ceremonial and the rites prescribed in the preparation, which is to arrange matters in such a way that, among all those prepared, the Chapter members and the Bishop celebrating, the Deacon and Subdeacon, that is to say, the ministers of the Mass, are placed in the procession, with the Bishop receiving the due honor from the two Deacons, who are simply called "Assistants"; the Deacon should assist the Bishop at the altar during the Mass, and no other. The second custom is that in other places, when the Mass is celebrated by someone other than the Bishop, the Deacon and Subdeacon should step aside, proceeding in the procession in their order, with a simple substitution, and the Deacon who is to administer first should be vested with a stole; elsewhere, as in the present chapter, it is customary for the assisting Deacons properly so called to step aside, maintaining their order in the procession, while the Canons, who are Deacons and Subdeacons, remain at the sides of the Bishop. After these matters, the author of this chapter proceeded to address the difficulties: especially that which arises at first glance from the response of the Holy Congregation in *Nullius Altemarae* on March 1, 1681, where the proposed question was: "When the Prelate is celebrating in the solemnity of the Body of Christ, who should receive the Most Holy Sacrament from the hands of the celebrant, and deposit it upon the altar, namely, the Canon chanting the Gospel, vested in an alb, stole, and dalmatic, and accustomed to minister at the altar; or the assisting Deacon in the throne, vested only

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in a dalmatic?" To this, the Holy Congregation responded: "The assisting Deacon should hand the Most Holy Sacrament to the celebrating Prelate, and receive it from him." *Acta*, Vol. III, Phase XXXIV, 35.

[*Latin ed. p. 546*]

546. SERVICES OF THE DEACON IN PONTIFICAL CELEBRATIONS, ETC. The Chapter observed that, perhaps in the present case, the matter concerned a church in which the custom of substituting ministers prevailed. In such a case, having put on the stole, the Deacon assisting at the throne could properly deliver the Most Holy Sacrament to the Prelate celebrating, and receive it from him. Furthermore, three other declarations were mentioned, perhaps raised in Alexandria on May 6, 1826, in Pisa on November 12, 1831, and in Viglaven. on September 6, 1834, in which cases the Sacred Congregation, referring to the *Caeremoniale Episcoporum*, ordered that it be observed; and it was noted that Gardellino, or the author of the annotation made in the decree in Alexandria, and also Catalanus in the Commentary on the *Caeremoniale*, were perhaps not fully attentive to what the same *Caeremoniale* states regarding Holy Thursday, where it clearly indicates that the Deacon proclaims the Gospel.

OPINION OF THE MASTER OF CEREMONIES, WRITTEN IN ACCORDANCE WITH HIS OFFICE. The Master of Ceremonies, briefly describing the state of the question, agreed with the opinion of the Chapter for a single reason: namely, custom. Since, in the present case, this custom was reasonable, he did not elaborate much on what should be done, but made the distinction based on custom. He noted, however, that the necessity of the stole was a general rule, but not one that could not admit of exceptions: and that this exception could occur in the procession on Holy Thursday, where all the Canons are vested in sacred vestments, and the first Deacon at the altar is wearing a dalmatic, which serves in place of the stole; therefore, he could deliver the chalice containing the Most Holy Sacrament without a stole, as is done in the Pontifical Chapel, not only according to the rite of the Master of Ceremonies, but also according to the observance of some Cathedrals; both the *Caeremoniale Ecclesiae Romanae* ordered by the Patrician Augustine and published by the Bishop Marcellus of Corcyra, and the *Caeremoniale Episcoporum*, prescribe that the Most Holy Sacrament be delivered by the Deacon assisting, without mentioning the wearing of a stole. Furthermore, it was noted that the procession was entirely different from the preceding Mass, and therefore, it was not useful to invoke the distinction between the service of honor and the service of the sacred order: in each case, after the solemn Mass was completed, or...

[*Latin ed. p. 547*]

SERVICES OF THE DEACON IN PONTIFICAL FUNCTIONS, ETC. 547 Deacons, who are said to show reverence through their actions, should step

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aside and, in the procession, walk alongside the others according to their precedence, and make way for the Deacon and Subdeacon who exercise the ministry of the order and follow after; or, when these step aside into the sacristy to remove the sacred vestments, they should take their place, adding the office of the order to the reverence shown. Regarding those Decrees of the Holy Congregation, which have been indicated above as difficulties, although they were local and based on obscure rubrics of the Ceremonial, nevertheless, from the entire context, it seemed more reasonable to favor the arguments of the opposing chapter. However, the Magister of the Ceremonies considered it prudent to maintain the ancient custom, which does not contradict an explicit law of the Ceremonial, and to hold it as reasonable; and that, by observing it, provision has been made for other doubtful matters. After these and other observations, and the proposals of the Sacred Congregation were discussed in the ordinary meetings held on February 29, 1868, the Sacred Congregation decided to respond as follows: Regarding I, in the case in question, nothing should be changed; regarding the other doubts: provision has been made in the first instance. From which, the following may be gathered: I. Although, generally speaking, those who minister in the administration of the Precious Blood and the Body of Christ ought to wear the sacred stole, which is the sacred and proper sign of the priesthood or the diaconal order; nevertheless, it is permissible for the Deacon to perform the sacred functions, even while wearing the dalmatic, so that he may administer the sacraments. II. Although it seems more appropriate on Thursday of the Lord's Supper for the Deacon of the Gospels to hand the Most Holy Sacrament to the celebrating Bishop to be carried in the procession; nevertheless, since the Ceremonial of the Bishops does not describe all the acts of the functions individually, and since there is a lack of a general decree of the Sacred Roman Congregation that accurately determines them, both opinions of the authors can be maintained. III. However, the opinion should be followed that is favored by the observance in each individual church.

[*Latin ed. p. 548*]

548 CAUSES OF VENERABLE SERVANTS OF GOD. In the same Congregation, besides other matters, certain doubts concerning the causes of the Servants of God were defined, and these are as follows: STRIGON, OR CASSIOVIA. Concerning the beatification or declaration of martyrdom of the Very Venerable Servants of God, Mark Crisim, Canon of Strigonium; Stephen Porgraz and Melchior Crodeczii, Priests of the Society of Jesus, killed by heretics in Cassovia, for hatred of the Faith. Presented by the Reverend Father Joseph Boero, Promoter of the Cause. Regarding the doubt: "Whether it is established that the processes were valid, both by Apostolic and ordinary authority; whether the witnesses were duly and properly examined, and whether the testimonies were legitimately obtained in the

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case, and to the effect of what is being considered." To this, the Sacred Congregation, after due deliberation, responded on February 29, 1868: affirmatively. TOLEDO, OR CORDÚBEN. Concerning the beatification and canonization of the Venerable Servant of God, John of Avila, Secular Priest, known as a Master. Presented by the Reverend Father Andrea of Saint Agnes, General Vicar of the Order of the Discalced Fathers of the Most Holy Trinity, for the Redemption of Captives, Promoter of the Cause. Regarding the doubt: "Whether it is established that the processes were valid, both by Apostolic and ordinary authority, concerning the miracles of the aforementioned Venerable Servant of God; whether the witnesses were duly and properly examined, and whether the testimonies were legitimately obtained in the case, and to the effect of what is being considered." To this, the aforementioned Fathers decided to respond: affirmatively.

[*Latin ed. p. 549*]

849 FROM THE CONSISTORY ACTS. After the creation of the Cardinals, of which we gave notice in the preceding volume, several vacant churches were proposed by the Most Holy Lord in the same Consistory on the secret day of March 13, to be given to their proper pastors; namely: the CATHEDRAL CHURCH OF SALAMANCA, which, according to Apostolic Letters entitled "Ad vicariam," dated the ninth of September 1851, is to be united with the church of Ciudad Rodrigo, which is vacant due to the transfer of the Reverend Father Anastasius Rodrigo Yusto to the metropolitan See of Burgos; to that church has been transferred the Reverend Father Joachim Lluch, until now the Bishop of the Canarias, by the benevolence of the Most Holy Lord, for presentation to the Most Serene Queen Catholica. Salamanca is the capital of the province of the same name and an ancient city of Castile, built in a pleasant and fertile location near the river Tormes, and is inhabited by sixteen thousand people under the temporary dominion of the aforementioned Most Serene Queen. The Cathedral Church is a large and magnificent structure, dedicated to the Blessed Virgin Mary, assumed into heaven, and, according to the aforementioned Apostolic Letters, is to be a suffragan of the Archbishop of Valladolid. Its chapter is to number five dignitaries (of which the first, after the pontifical one, is the Deanery), four canons with a theologian and a penitentiary, nine honorary canons, and fourteen beneficed canons. A parish priest exercises pastoral care in the Cathedral, where there is a baptismal font, etc. In addition to the Cathedral, there are twenty-two other parish churches in Salamanca, all equipped with baptismal fonts, several houses of religious women, some lay sodalities, two hospitals, a hospice, and a seminary; there is also another seminary in Ciudad Rodrigo, whose Cathedral Church has been reduced to a collegiate church, according to the aforementioned Apostolic Letters; however, a house of piety is lacking. The extent of the diocese extends to two hundred and ninety square leagues, encompasses the same number of

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parish churches, and includes one hundred and forty dependent churches.

THE CATHEDRAL CHURCH OF CASSOVIEN, vacant due to the death of the Most Reverend Ignatius Fabry, the last Bishop of that See, "having died outside the Roman Curia," to which the Reverend Father John Perger, a priest of the diocese of Cassoviensis, was promoted by the benevolence of the Most Holy Lord, for nomination by His Imperial Majesty Francis Joseph I, Emperor of Austria, King of Bohemia and Hungary, the Apostolic: this priest, inscribed in the clerical register of the church of Agriensis, has excelled in the performance of ecclesiastical duties, having previously served as a cooperator in the ministry of the care of souls, as Prefect of Studies, and as Professor of Canon Law in the Seminary; he was then a parish priest of Nyiregyhaza, Archdeacon of Szabolcs, and, moreover, a canon of the metropolitan church of Agriensis, to which he has renounced his position. Cassovia is one of the principal cities of Upper Hungary, located in the county of Abaujvar, built in a pleasant location on a plain surrounded by hills covered with vineyards, and contains one thousand five hundred houses, numbering seventeen thousand citizens, of whom almost all profess the Catholic religion, under the temporary dominion of the aforementioned Most Serene Emperor and King.

[*Latin ed. p. 550*]

550 FROM CONSISTORY ACTS. The Cathedral Church, recently reconstructed in honor of Saint Elizabeth, daughter of King Andrew, supports the Archbishop of Erlau with its spacious and Gothic structure. Its chapter numbers seven canons, and among these, four dignitaries (the first of whom, after the pontifical office, is the Major Prefect), two chaplains, nine priests, and over forty clerics serving in the sacred ministry; theological and penitential positions are needed. One canon, assisted by five priests, provides pastoral care in the Cathedral, where there is a unique baptismal font in the city, etc. No other parish or collegiate church is found in Gassovia, nor any lay sodalities, nor a house of piety, but there are two monasteries for men and one for women, as well as two hospitals and a seminary with students. The territory of the diocese extends quite widely, encompassing over ninety locations, and nearly two hundred parish churches, as well as many chapels.

THE CATHEDRAL CHURCH OF POPAYAN, in the Neogranatan jurisdiction of South America, is vacant due to the death of the Most Reverend Peter Anthony de Torres, the last bishop, who died outside the Roman curia; the Reverend Charles Bermudez, a priest of the archdiocese of Saint Faith, has been promoted to it, and he has commendably fulfilled ecclesiastical duties; the parish priest of Nemocon in the archdiocese of Saint Faith of Bogota has recently resigned. Popayan is the capital of the province of the same name and a city in the Neogranatan jurisdiction of South America, distinguished by its antiquity and healthy air, built in a pleasant location

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near the River Saint Martha, and has a circumference of approximately two leagues, inhabited by nearly ten thousand citizens who profess the Catholic religion. The Cathedral Church, dedicated to the Blessed Virgin Mary under the title of the Annunciation, supports the Archbishop of Saint Faith of Bogota. Its chapter includes three dignitaries (the first of whom, after the pontifical office, is the Dean), canons, a theological and penitential position, two other canons with full stipends, and two with half stipends, as well as six chaplains serving in the divine ministry, along with a master of ceremonies and a vice-chanter. A priest, assisted by two other priests, provides pastoral care in the Cathedral, where there is a baptismal font, etc., and there are many relics of saints, especially those of Saint Barbara, the patron saint of the diocese, which are properly preserved, and outside the city there is a cemetery. No other parish church is found in Popayan, nor a house of piety, but there is a religious house for women, several lay sodalities, a hospital, and a seminary. The territory of the diocese extends very widely, encompassing many more locations and numerous parishes.

THE CHURCHES OF MEDELLÍN AND SANTA FE DE ANTIOQUIA have been vacant since their original establishment; for the Most Holy Lord, through a decree of the Sacred Congregation of the Consistory, suppressed the Apostolic ministry on February 14, 1868, and transferred the Episcopal See of Santa Fe de Antioquia, which was vacant due to the death of the Most Reverend Joseph Anthony Riaño, to the civil town of Medellin, which it elevated to the dignity of a city and cathedral, combining it with the title of the suppressed church; the Reverend Valerius Anthony Jimenez, a priest of the diocese of Santa Fe de Antioquia, was promoted to this church, and he has diligently fulfilled ecclesiastical duties, having received a doctorate in theology; he served as a parish priest in the town called Marinella for many years, then as a vicar forane, then as the vicar general of the late bishop of Santa Fe de Antioquia, and finally as a vicar capitular. The city of Medellin, commonly called Medellín,

[*Latin ed. p. 551*]

FROM THE CONSISTORY ACTS. The province of Cundinamarca, located in the Neogranatin region of South America, and situated in the middle of the diocesan territory, excels Antioch, both for its healthy air, its population, and its important administration. It is inhabited by fourteen thousand or more souls, all of whom profess the Catholic religion. The temple dedicated to the Most Blessed Virgin Mary, under the title of Purification, has been raised to the status of a cathedral, retaining its ancient title, and is a suffragan of the Archbishop of the Holy Faith of Bogota. A chapter will be established, modeled after the suppressed Chapter of Antioch, which formerly comprised four dignitaries, of whom the first, after the pontifical office, is the Dean, followed by eight canons, and several chaplains and clerics dedicated to divine service. 551 Parishes existing in

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the Cathedral will either be maintained there, or transferred to another more suitable location, at the discretion of the aforementioned Apostolic Delegate. The sanctuary will be furnished with all the necessary furnishings for pontifical celebrations, and there will be a choir, an organ, and all other things pertaining to a cathedral church. Buildings for the Bishop's residence will be acquired, as far as possible, in close proximity to the Cathedral. The revenues are fixed in the books of the Camera at 33 Florins. The diocesan seminary, formerly located in the suppressed seat of Antioch, will continue until it is established in the city of Medellin. The extent of the diocese is very wide, encompassing many places and numerous parishes. Finally, the Holy Father has approved the following appointments, which had already been carried out by the Sacred Congregation of Propaganda Fide, by which the following churches have been assigned pastors:

THE CATHEDRAL CHURCH OF BUSHVILLE.

THE CHURCH OF WILMINGTON, recently raised to the status of a cathedral in the ecclesiastical province of Baltimore, in the same United States, to which is assigned the Reverend Father Francis Beeker, a diocesan priest of Richmond.

THE CHURCH OF MARYSVILLE, recently raised to the status of a cathedral in the ecclesiastical province of St. Francis, in the United States in confederation, to which is assigned the Reverend Father Daniel O'Connell, Apostolic Vicar of the same Vicariate, transferred from the church of Flaviopolis.

THE CHURCH OF COLUMBUS, recently raised to the status of a cathedral in the ecclesiastical province of Cincinnati, in the United States in confederation, to which is assigned the Reverend Father Sylvester Horton Rosecrans, Auxiliary to the Archbishop of Cincinnati, transferred from the church of Pompeiopolis.

THE CHURCH OF SCRANTON, recently raised to the status of a cathedral in the ecclesiastical province of Baltimore, in the same states, to which is assigned the Reverend Father William O'Hara, a priest of Philadelphia.

THE CHURCH OF HARRISBURG, recently raised to the status of a cathedral in the ecclesiastical province of Baltimore, in the same states, to which is assigned the Reverend Father Jeremiah Shanahan, a priest of Philadelphia.

THE CHURCH OF GREEN BAY, recently raised to the status of a cathedral in the ecclesiastical province of St. Aloysius, in the same states, to which...

[*Latin ed. p. 552*]

552 FROM THE CONSISTORY ACTS. The Reverend Joseph Melcher, Priest of Saint Aloysius, is appointed. The CHURCH of Crossen, recently

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erected as a cathedral in the ecclesiastical province of Saint Aloysius within the same state, is under the direction of Father Michael Heiss, a diocesan priest of Milwaukee. The CHURCH of Saint Joseph, recently erected as a cathedral in the ecclesiastical province of Saint Aloysius within the same state, is under the direction of Reverend John Hogan, a priest of the Archdiocese of Saint Aloysius. The CHURCH of Rochester, recently erected as a cathedral in the ecclesiastical province of New York within the same United States, is under the direction of Reverend Bernard Mae Quaid, a diocesan priest of Newark. On March 16th, following the public Consistory, the Holy Father held a secret Consistory, in which, after the customary ceremonies were celebrated, that is, after the new Cardinals had been invested with their purple robes, the following vacant sees were proposed: The METROPOLITAN CHURCH of Quito, in the jurisdiction of Ecuador in South America, is vacant due to the death of the Most Reverend Joseph Maria Yerovi, the last Archbishop of that see, who died outside the Roman curia. To this see is appointed the Most Reverend Joseph Ignatius Checa, Bishop of Ibarra. Quito, a city in the Ecuadorian jurisdiction in South America, and the capital of the province of Pichincha, is built in a pleasant and healthy location under the sky, and is inhabited by approximately eighty thousand Catholic inhabitants. The Metropolitan Church, of the best and most ample structure, is dedicated to Saint Francis of Assisi, and has five suffragan bishops. Its chapter includes five dignitaries (of which the first, after the pontifical office, is the Deanery), six canons with a theologian and penitentiary, four prebendaries, and two vicars, six chaplains of the choir, and other priests and clerics who devote themselves to the work of God. The care of souls in this metropolitan church is exercised by two parish priests, where a baptismal font is elegantly preserved in the chapel, etc., and there are several relics of the saints decently kept, and outside the city, a cemetery. Six other parish churches are also present, equipped with baptismal fonts, nine monasteries for men and five for women, a pious house for the education of girls, several lay sodalities, a hospital for both sexes, a college, and a seminary; but a house of piety is lacking. The territory of the Archdiocese extends very widely, encompassing many provinces and numerous places. The ARCHIEPISCOPAL CHURCH of Ancyra is vacant due to the translation of the Most Reverend Vincent Spaccapietra to the metropolitan see of Smyrna; to this see is promoted the Reverend James Cattani, a priest of the Diocese of Faenza, who, having received his doctorate in philosophy and theology at the Pontifical Roman Seminary, has shown himself to be very capable in ecclesiastical functions; he has been co-opted among the domestic prelates of the Holy Father, made a canon in the Patriarchal Archbasilica of the Lateran, and has served until now as Apostolic Delegate in The Hague, in the Netherlands. Ancyra, the primary city of Galatia, famous for the Council of Ancyra, is still miserably subject to the yoke of the infidels. The EPISCOPAL CHURCH of Costantien, under

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the Archbishop of Boston, in the par-

[*Latin ed. p. 553*]

FROM THE CONSISTORY ACTS. The see of Mechlin, vacant by the death of the Most Reverend Vincent Paccaroni, the last Bishop outside the Roman Curia, has been filled. The Reverend Charles Andrea Anthonis, a priest of the Archdiocesan Church of Mechlin, has been appointed as Auxiliary to the Most Reverend Victor August Isidore Dechamps, Archbishop of Mechlin, to perform pontifical and other pastoral duties in that city and archdiocese, with his consent and willingness. The same Reverend gentleman has diligently performed ecclesiastical duties, serving as Professor of Holy Scripture in the Archdiocesan Seminary of Mechlin, and as its Rector until the present time, having also renounced the honorary canonry in that metropolitan church. The city of Constance, in Coele-Syria, in the region of Palestine, still known from the books of the Councils, is most wretchedly subjected to the yoke of the infidels.

After these matters, the Most Holy Father announced new elections of Bishops, which were made by the Holy Congregation for the Propagation of the Faith, and are as follows:

THE CATHEDRAL CHURCH OF LODOVICOPOLI, and the EPISCOPAL CHURCH OF EPIPHANIE, in the United States of America, to which the Reverend William Mac-Closkey, Rector of the American College which exists in Rome, has been appointed. The title has been conferred upon the Reverend John Proietto Mackebeuf, a priest, Apostolic Vicar of the territory of Colorado and Utah, in parts inhabited by infidels.

THE CATHEDRAL CHURCH OF ERIEN, in those same parts inhabited by infidels, to which the title has been conferred upon the Reverend August Ravoux, a diocesan priest of St. Paul of Minnesota, Apostolic Vicar of the Territory of Montana.

THE CHURCH OF PITTSBURGH, in those same United States, to which the Reverend Tobias Mulier, a priest of Pittsburgh, has been appointed.

THE CATHEDRAL CHURCH OF BUFFALO, in those same United States, to which the Reverend Stephen Vincent Ryan, of the Congregation of Missions, has been appointed.

THE EPISCOPAL CHURCH OF ADRAMTTTEN, in parts inhabited by infidels, to which the title has been conferred upon the Reverend James Gibbons, a priest of Baltimore, and Apostolic Vicar of North Carolina.

THE EPISCOPAL CHURCH OF CASJABALEN, in parts inhabited by infidels, to which the title has been conferred upon the Reverend Louis Lootens, a priest of St. Francis, Apostolic Vicar of the Territory of Idaho.

THE EPISCOPAL CHURCH OF LIMÏREN.

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THE EPISCOPAL CHURCH OF PENTACOMIEN, in parts inhabited by infidels, to which the title has been conferred upon the Reverend Michael Angelo a Serevezza, whose baptismal name is Aloysius James, a priest, Professor of the Order of the Seraphic Capuchins, Apostolic Vicar of Agra.

THE EPISCOPAL CHURCH OF RHODIOPOLITAN, in parts inhabited by infidels, to which the title has been conferred upon the Reverend Paul a Cesena, whose baptismal name is Anthony Tosi, a priest of the same Order, Apostolic Vicar of Patana.

Then, the Most Holy Father, according to custom, spoke to the Most Reverend and Venerable Cardinals Bonaparte, Gonella, Berardi, Monaco, La Valletta, Borromeo, and Capalti.

After these matters, the same Most Holy Father received a petition for the grant of the sacred Pallium for the Metropolitan Church of Quito, or for the Most Reverend Joseph.

[*Latin ed. p. 554*]

554 FROM THE CONSISTORY ACTS. Ignatius Checa; also for the church of Ultraiect, or for the Reverend Father Andrea Schaepmann; also for the Reverend Father Filippo Krementz, prelate of the Cathedral of Varmi, which was granted this privilege by Pope Benedict XIV through a Brief: "The Roman Church, mother and teacher of all churches," on April 21, 1742. Finally, the Most Holy Father, conferring the cardinal's ring upon the new cardinals, assigned them the following titles: the title of Saint Pudens to the Most Eminent and Reverend Cardinal Bonaparte; the title of Saint Mary above Minerva to the Most Eminent and Reverend Cardinal Gonella; the title of Saints Marcellinus and Peter to the Most Eminent and Reverend Cardinal Berardi, releasing him from the bond of the Archbishopric of Nice in lands outside the faith; the title of the Holy Cross of Jerusalem to the Most Eminent and Reverend Cardinal Monaco La Valletta; the title of the Diaconate of Saints Vitus and Modestus to the Most Eminent and Reverend Cardinal Borromeo; the title of the Diaconate of Saint Mary in the Aqueduct to the Most Eminent and Reverend Cardinal Capalti. Here, we add a description of the Metropolitan Church of Mechlin, which was inadvertently omitted in the acts that we presented. 437 of the Secret Consistory of December 20, 1867. THE METROPOLITAN CHURCH OF MECHLIN, vacant due to the death of the esteemed Engelbert, Cardinal Priest of the Holy Roman Church Stercx, to which the Reverend Father Victor Augustus Isidorus Dechamps, formerly Bishop of Namur, was transferred. Mechlin, or Mechlin, is a large and distinguished city in Belgium, and the capital of the district of the same name in the province of Antwerp, built on the Dyle River, and inhabited by approximately thirty-six thousand citizens. The Metropolitan Church, dedicated to Saint Rumold, Bishop of Dublin and Martyr, is attended by five suffragan bishops. Its chapter includes three dignitaries (of which the first, after the

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pontifical office, is the Deanery), thirteen canons with stipends, eighteen honorary canons, five chaplains, and numerous priests and clerics serving in the ministry. The care of souls in this church is exercised by a canon with an honorary stipend, assisted by four vicars, and there is a baptismal font, as well as many other notable relics of saints, which are religiously preserved, among them the body of Saint Rumold, the patron of the city and archdiocese, and a cemetery outside the city. In addition, there are seven other parish churches in Mechlin, all equipped with baptismal fonts, except for one; three monasteries for men and eleven for women; a conservatory; twenty-five lay sodalities; four hospitals; a pawnbroker's shop, and two extensive seminaries. The territory of the archdiocese extends to approximately twenty leagues in width, encompassing the provinces of Antwerp and Brabant, and includes more than six hundred parishes.

[*Latin ed. p. 555*]

555 APPENDIX X I . CONCERNING MANUAL MASS STIPENDS, A NEW QUESTION. In the year 1860, the following was proposed to the Holy Penitentiary: "Is it permissible for a priest to arrange that manual Masses, which he receives from the faithful from all places, be celebrated by others, retaining a portion of the stipend for a pious work? It is always understood that the substitute priests are informed of the retention of a portion, and that they freely consent." The consulter believes that it is not permissible, and that the case falls under the prohibition of the Constitution *Quanta Cura* and other decrees of the Popes. However, since some others seem to view it differently, due to the matter of a pious work being involved, the Holy Penitentiary asks: I. "Is it possible for a priest who has received a larger-than-usual stipend to give a portion of it to another priest as an offering for a pious work, retaining the ordinary tax, while the substitute priest is content with the usual stipend in every way?" II. "And, if so, is the priest obligated to make restitution if he acts otherwise?" The Holy Penitentiary referred these questions to the Sacred Congregation of the Council. The Sacred Congregation of the Council responded on August 20, 1860: "Let them consult theologians, especially St. Alphonsus in *Tractatus* 13 on the Sacrament of the Eucharist, Chapter 7, and Benedict XIV in *De Synodo Diocesana*, Book 5, Chapter 9, and his Constitution *Quanta Cura*, and let them conform to their opinions." However, we were unable to find this rescript in the archives of the Sacred Congregation, because the diocese was not indicated; this indication is necessary when the case has not been discussed in a plenary session, so that it can be more easily found. II. "Is it possible for a priest to substitute another priest, under the condition that a portion of the ordinary stipend be given as an offering for a pious work?" This prudential response, which came from the authority of the Sacred Congregation, and which did not define the question, gave the writers an

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opportunity to discuss the matter, especially as it is practiced in France; on this matter, one can consult *Ephemerides: Revue de Sciences ecclésiastiques*, directed by M. Abbé D. Bouix, Arras, year 1866, in the June issue. III. "And, if the answer is negative in both cases, is the priest obligated to make restitution if he acts in this way?" IV. "Is a priest requesting such a donation obligated to first give the entire stipend to the other priest?" We, in our usual manner, will briefly consider the same question according to the indicated norms. St. Alphonsus, adhering to the decrees of the Holy See and the Constitution of Benedict XIV, addresses the matter in Book 6, number 321.

[*Latin ed. p. 556*]

556 APPENDIX xi. This states: "He who receives money from another [to say] Mass: With what care he should ensure that, fearing punishment, he takes care to have the Mass celebrated, or, speaking of himself, how he removes the faithful from this shameful practice, he orders that the Mass be celebrated by another, and instructs Ordinaries, by means of an edict, to make known which priest receives the least donation, whatever it may be [from the words of the Epistle], who receives stipends for celebrating Masses, as the customs of the places or synodal statutes require, that those who collect for Masses, retaining a portion of the stipends received, either there or elsewhere, where smaller stipends are given for celebrating Masses, have the Mass celebrated. After this decree, some even maintained that it was permissible to retain a portion of the alms, the celebration of the Mass being entrusted to another, asserting that this decree had not been accepted (1). Therefore, the aforementioned Alexander VI. condemned proposition 9, which stated: "After the decree of Urban, a priest to whom Masses for celebration are entrusted can satisfy [the obligation] by having another celebrate, retaining a portion of the stipend for himself, with the lesser stipend given to the other."

Hence, our Holy Father Benedict XIV. in his Encyclical Letter issued on June 30, 1741, stated: "Desiring to remove every detestable gain from the Church, We prohibit that a priest who undertakes to celebrate a Mass with a certain alms, should entrust the celebration of the same Mass to another, retaining a portion of that same alms for himself. After this decree, some even maintained that it was permissible to retain a portion of the alms, the celebration of the Mass being entrusted to another, asserting that this decree had not been accepted (1). Therefore, the aforementioned Alexander VI. condemned proposition 9, which stated: "After the decree of Urban, a priest to whom Masses for celebration are entrusted can satisfy [the obligation] by having another celebrate, retaining a portion of the stipend for himself, with the lesser stipend given to the other."

However, from this prohibition, cases arise, such as when someone gives a larger sum not so much for the Mass itself, but out of friendship, poverty,

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gratitude, kinship, etc. In this case, the priest may retain an excessive amount, by entrusting the celebration of the Mass to another. (1) Those who assert this, and speak in this way about the decrees of the Holy See, if they cannot be excused by some simplicity, are to be considered infected with Jansenist or Gallican errors. For this very way of speaking offends the ears of Catholics, and rightly so: for it is absurd to consider the decrees of the Holy See as if their force required the acceptance of the faithful. The Apostolic authority bestowed upon the Blessed Peter and his successors by divine right shines with such intensity and amplitude that, as it were, the decrees themselves scarcely require any promulgation to bind all the faithful of every rank.

[*Latin ed. p. 557*]

[XXI. » Hoc vero non admittit *Croix*, 1. c. cum Stephano, nisi si eleemosyna hunc suum specialem affectum verbis expresserit; sed haec limitatio superflua videtur, si ex circumstantiis moraliter constet eleemosynam praestitam fuisse intuitu personae. Excipiunt I.I... casum quo Sacerdos, cui committitur celebratio, liberaliter et omnino sponte tibi condonet excessum illum; sicut enim ille potest totum remittere, sic et partem. Veruntamen hoc minime admittendum, si tu indices maius pretium acceptum et Sacerdotem roges ut remittat; vel ab eo quaeras, an consentiat, et tu partem retineas; tunc enim nequis eam retinere, iiamsi ille annuat; nam hoc in praefata Bulla Bened. XIV. asseritur tanquam execrabilis abusus vetitus a pluribus Pontificibus, qui Decretum voluerunt (verba Bullae), nimirum a quolibet Sacerdote, stipendio maioris pretii pro celebratione Missae accepto, non posse alteri stipendium minoris pretii erogari, etsi eidem Sacerdoti celebranti et consentienti (nota) se maioris pretii eleemosynam accepisse indicasset. Quamvis autem S. Alphonsus rem hanc pluribus Decretis prohibitam, per se intrinsece malam non esse fateatur, sed ideo malam esse iudicet, quia districte vetita; tamen aliquid iniustitiae adesse, praecisione facta, etiam ab hac prohibente lege reperit ibidem n. 322, ubi de restitutione facienda agens haec scripsit: « Batio, quae fortius urget, (ad restitutionem scilicet faciendam) est, quia tametsi Sacerdos eleemosynam accipiens acquirat eius dominium, illud tamen non aliter acquirit, nisi iuxta voluntatem dantis; voluntas autem dantis est, non solum ut Missa celebretur, sed ut celebretur tali stipendio: cum enim pinguem tradit stipem, ea intentione dat, ut uberiorem fructum ex Missa celebranda percipiat; ergo, qui tradito minori stipendio, per alium celebrare facit, peccat contra iustitiam, non quia defraudat fructu Missae dantem eleemosynam... sed quia non exsequitur dantis intentionem, qua vult ut illa Missa, unde percipit fructum, tali stipendio celebretur; et quia eiusmodi intentio intrat in substantiam contractus, ideo, si Sacerdos partem stipendi retinet, iniuste contra dantis voluntatem retinet.» Benedictus XIV. in opere de Syn. dioeces. I. 5 c. 9 haec, praeter alia iam a S. Alphonso exposita, addit:

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«quia tamen aliquando illa consuetae eleemosynae remissio deprehensa est noxia aliis Sacerdotibus, qui ob fraudulentam aliorum liberalitatem, debita sibi stipe privabantur: idcirco Sacra Congregatio praedictam remissionem quandoque fieri vetuit, quemadmodum contigit in una Sancti Severini, in qua Epi-

[*Latin ed. p. 558*]

558 APPENDIX x i . » Regarding this matter, the following question was posed: Priests, it is customary for them to offer daily prayers, and in return, they receive a small alms of half a *denarius* (or five *oboli*) for each Mass; therefore, it is requested that it be declared whether the priest can establish a fixed alms of one *denarius* for each Mass, imposing a penalty on those who offer a lesser amount; on July 16, 1689, the following response was given. "Concerning the fixed alms, it is affirmed. This, as well as other ecclesiastical regulations mentioned in the same Constitution *Quanta Cura*, which St. Alphonsus has cited, should not be omitted, namely, the rule that the silent or expressed will of the pious giver is violated by the transfer of Masses from one place to another: 'For in that (church), as the Constitution states, Masses are to be celebrated by those who wish to have them celebrated, who are led by the stimulus of religion and piety to offer alms, or in which someone may perhaps be protected, more than in another church entirely unknown to them.' The doctrine presented can be reduced to the following rules. I. The entire alms for Masses are to be given to the priest celebrating, whoever he may be; and this both to avoid the damnable profit or commerce in such a sacred matter, under the most severe penalties; and also for the sake of justice, since the entire fixed alms, from the will of the pious giver, are intended for the celebration. II. Exceptions are made in cases where those offering larger alms do so for that reason, or act in such a way that it is clearly understood that they are giving not only for the sake of the celebration, but also for another extrinsic reason, such as friendship, poverty, gratitude, etc. III. The aforementioned rule is violated when substituted priests are said to consent to the remission of a portion of the alms, a remission which they do not entirely freely and spontaneously grant; therefore, it is forbidden, for the same reason, to retain a portion of the alms, even if the substituted priest approves of such retention (1). IV. It is not permissible to collect alms for Masses from all places, in order that Masses may be celebrated in other regions and in other places, contrary to the silent will of the givers. (1) At first glance, such a prohibition against retaining a portion of the alms, even if the substituted priest consents, may seem severe; for no one denies that the substituted priest, if he wishes, can remit the entire alms. But in this matter, the opinion of the provincial synod of Vienna, held in 1858, is excellent, expressed in these words: "He who, having received the fixed alms, transfers the obligation of celebrating the Mass to another priest, is bound to give the entire alms to him, even if the

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fixed alms established by the superior are greater, and he should not assist one who retains a portion, even if the other, having become more aware of the matter, consents. For it is not a matter of private advantages, but of the decorum of the most sacred thing."

[*Latin ed. p. 559*]

XI. Having these norms before us, partly confirmed by Apostolic authority, and partly admitted, it remains to be seen how they can be applied to the case in question. The answer would be easy if we were dealing with alms collected and given for Masses by pious individuals, who know that a portion of these alms will be used for some pious cause; and who, spontaneously, give for that very reason. In such a case, the second rule mentioned would apply, and the entire question would be reduced to what is stated in the second formula for doubt, namely, the portion to be retained of the ordinary alms. But since there is no indication of the intention of the giver in the case in question, this hypothesis must be set aside, and we must say the following. It does not seem that there is any disgraceful profit in the case in question, and therefore it does not fall under the prohibition of the first rule; for the portion of the alms is retained not to obtain disgraceful profit, but for a pious cause; and the profit from this is not only not disgraceful or damnable, but is indeed worthy of commendation. Do not say that the profit is damnable simply because it is derived from alms for Masses; for, as St. Alphonsus teaches, the retention of a portion of these alms is not, in itself, wrong. Therefore, the present case may be illicit to the extent that it violates the first rule mentioned in the second exposition, namely, to the extent that the will and intention of the pious giver are violated; for it is certain that the will of the pious givers cannot be changed without the intervention of Apostolic authority. In like manner, it could incur the censure of the fourth rule. And to be precise: it seems that the fourth rule is violated in this case, since it is stated in the general exposition that priests should collect manual offerings for Masses from all sides. This collection of offerings for Masses from all sides, made without private authority, is prohibited by the Constitution: *Quanta cura*, according to the general canon law. To the first formula for doubt, as it stands, it seems that the answer should be that it is permissible, for the following reasons, with the distinction to be mentioned below: 1. Because of the words: "substitute with, content with all freedom." 2. Because it is easier to admit this, since it concerns a portion of the alms to be spent on pious works; in which case, the retention of this portion of the alms is not included under the sentence of the law, which was enacted to prevent private profit and speculation, although it may seem to be included under the words of the law. To the second doubt, it seems that the answer should be, with a distinction: namely, whether it concerns a few cases in which priests are sought out to contribute to some pious work, through a kind of established association,

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under the condition that a portion of the ordinary alms be...

[*Latin ed. p. 560*]

360 APPENDIX X I . [Certain arrangements] remit the benefit to someone through the pious operation of celebrating Masses, without any necessity of accepting a condition; in this case, nothing seems to be reprehensible; for these priests would be nothing other than a species of commerce, by which they easily offer a means whereby faithful and upright people can contribute to a pious work, and whereby the sacred dignity can easily be degraded in the eyes of the wicked, and therefore, for many reasons, such a transaction is already forbidden by the canons and laws pertaining to the clergy.

(1) It is not a question of a matter pertaining to the work itself, but of a matter which, by its very nature and its associated aspects, would be prohibited and illicit, and which, at least in certain places, should be abolished by public laws.

(i) In order that we may not seem to say this without any real foundation, we refer here to a case which is expressly discussed and resolved in the aforementioned periodicals in the year 1866, in the January issue, by the esteemed Craisson, who was then Vicar General. The case is as follows:

"An undertaking was created under the following conditions. It is directed by ecclesiastics, all of whom are engaged in the sacred orders and even exercise the holy ministry. These ecclesiastics do not administer the undertaking themselves; rather, they do so through an intermediary, who is presumably a layperson and takes the name of manager. They act as intermediaries between priests who have an abundance of fees for Masses and those who are lacking in them, and they offer to those who wish to entrust them with the distribution, a gratification of 25 sous for 100 francs, to be provided in the form of books, merchandise of various kinds, or in the form of Masses paid for in addition to the fees entrusted.

"In order to be able to provide the promised gratification, a bank is attached to the undertaking, where coupons of annuities are paid, purchases are made at cash prices of stocks and bonds, and the undertaking takes charge of the sale of securities, and lends funds to those who desire to obtain them. The manager even undertakes, upon the sending of a certain number of Mass fees, or on the condition that a certain amount of intentions is paid, to provide the priests employed in the holy ministry with all the objects of which they may have need. His numerous connections with manufacturers enable him to fulfill this commitment promptly."

"In their prospectus, the directors of the undertaking subsequently publish a list of various items offered free of charge to those who send Mass fees, indicating the number that must be sent in order to obtain each of these books."

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"This undertaking, as one might expect, has not been approved by any ecclesiastical authority. On the contrary, from letters addressed to the manager and published in the same prospectus, it appears that it has been approved by the diocesan authority."

"The questions to be considered are: 1° Whether an undertaking established under such conditions is canonical; 2° Whether an ecclesiastic can lawfully entrust to the manager funds which the undertaking must use for its various operations; 3° Whether one can in conscience send Mass fees to the manager on the condition of receiving, in addition, the 25 sous for 100 francs, either in the form of Masses paid for in addition, or otherwise."

[*Latin ed. p. 561*]

FROM THE HOLY CONGREGATION OF THE INDEX. DECREE. Tuesday, the 11th day of May, in the year 1868. The Sacred Congregation of Most Eminent and Most Reverend Cardinals of the Holy Roman Church, by the Most Holy Lord Pope Pius IX, and the Holy Apostolic See, concerning the condemnation, expurgation, and permission of books with pernicious doctrine, within the entire Christian Republic, having met in the Apostolic Palace at the Vatican, condemned and condemns, proscribes and proscribes, or ordered that certain works be referred to the Index of Prohibited Books, the following works:

* *Das Ghristenthum, und die moderne Naturwissenschaft,* by I. Frohschammer. In Latin: *Christianismus, et scientia naturalis moderna,* by the author I. Frohschammer. Vienna, published by Tendier et Soc. 1867.

* *Quinquaginta Theses de informandis Ecclesiae relationibus in praesenti tempore,* by the author D. Fr. Michelis. Braunsberg, published by Edward Peter, 1867.

* *Il Medio Evo italiano, racconti storici offerti agli studiosi adolescenti,* by Mario Paganetti. Milan, published by Gio. Gnocchi di Giacomo, bookseller.

* *Cento Biografie di fanciulli illustri italiani proposti ad educazione ed esempio della gioventù,* by G. Marco Bourelly, Master in the sacred colleges of Milan. Milan, published by Gio. Gnocchi di Giacomo.

The author of the work entitled: *Lettres de Sophronius, Question liturgique,* Paris 1864, having commendably submitted himself, was condemned by Decree on the 25th of April, 1864.

Therefore, no person of whatever rank or condition, in any place, and in whatever language, may henceforth publish, or read or retain the aforementioned condemned and proscribed works, but rather, they are bound to deliver them to the Ordinary of the place, or to the Inquisitors of heretical depravity, under the penalties indicated in the Index of Prohibited Books.

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Acta, volume III, pages XXXV and XXXVI.

[*Latin ed. p. 562*]

DECREE. Whereas, the most holy and pious POPE PIUS IX, through me, the undersigned, having been informed of certain secret matters, His Holiness approved the following Decree and ordered it to be promulgated. In witness whereof, etc. Given in Rome on the 15th of May, 1868. ANTONINUS Cardinal D E LUCA, Prefect of the Place of the Seal. Fr. ANGELUS VINCENTIUS MODENA, of the Order of Preachers, Secretary of the Congregation of the Holy Office. On the 16th of May, 1868, the aforementioned Decree was affixed and published at Santa Maria sopra Minerva, at the Basilica of the Prince of the Apostles, at the Palace of the Holy Office, and at the Curia Innocentiana, and in other customary places within the City, by me, Aloysius Serafini, Apostolic Secretary, and Philip Ossani, Major Domus.

[*Latin ed. p. 563*]

563 APPENDIX XII. NUMEROUS DECREES OF THE HOLY CONGREGATION OF SACRED RITES, ISSUED FROM THE YEAR 1856 UNTIL AUGUST 31, 1867, TO WHICH CERTAIN PRELIMINARY NOTES ARE ADDED REGARDING SAID DECREES.

Since numerous Decrees of the Holy Congregation of Sacred Rites, issued from the year 1856 until August 31, 1867, have been added to the celebrated collection of Gardellini, and have become of public law, we shall present them in the present and following fascicles, omitting that external form which is proper to the collection of Gardellini, and following solely the chronological order, so that the Decrees may be easily found, with the following notes; we shall also omit certain Decrees which would not be of use to our readers. For a greater understanding of the value of these Decrees, we believe it is necessary to preface them with certain remarks.

It is well known that Pope Sixtus V, in his Constitution *Immensa aeterni Dei*, by which he established fifteen Holy Congregations, decreed concerning the Congregation of Sacred Rites as follows: "Desiring to increase the piety of the children of the Church and the divine worship by preserving and restoring the sacred rites and ceremonies, we likewise delegate five Cardinals, to whom this duty should especially pertain, so that the ancient sacred rites may be diligently observed everywhere in all churches of the city and the world, even in our pontifical chapel, in the Masses, in the divine offices, in the administration of the Sacraments, and in all other matters pertaining to divine worship; that the ceremonies, if lacking, be restored; if corrupted, be reformed; that the books concerning sacred rites and ceremonies, especially the Pontifical, the Ritual, and the Ceremonial, be reformed and amended as necessary; that the divine offices concerning the patron saints be examined, and that, after consulting with us before-

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hand, they be permitted. They shall also diligently attend to the canonization of saints and the celebration of feast days, so that all things may be done properly and according to the tradition of the Fathers, and so that Kings and Princes, and their chaplains, and other persons, even those of the ecclesiastical order, who come to the City and the Roman Curia, may be received honorably and with due reverence, in accordance with the customs of our predecessors, and that provision be made for their accommodation. They shall also investigate controversies concerning precedence in processions, or elsewhere, and other difficulties arising in such sacred rites and ceremonies, and shall resolve and settle them summarily."

This most ample authority has been exercised, and is exercised, by the Holy Congregation in issuing Decrees concerning sacred rites and ceremonies, or even causes of Servants of God.

[*Latin ed. p. 564*]

564. Regarding the value of Decretals concerning sacred rites, on May 23, 1846, the Sacred Congregation was asked by the General Order of Preachers with these words: "Whether the Decretals issued by the Sacred Congregation, and the responses given by it to any questions proposed, which are formally written and published, possess the same authority as if they emanated directly from the Supreme Pontiff himself, even though no relation has been made to its Holiness regarding them?" To which the Sacred Congregation responded: "Affirmatively." This response was confirmed by the Most Holy Lord on July 17, 1846. No other answer could have been given; for the Roman Pontiff is understood to make his own those things which are decreed with such Apostolic authority. Therefore, whether or not an explicit subsequent confirmation by the Roman Pontiff is added, Decretals issued according to the limits of delegated Apostolic authority possess the same value as if they emanated directly from the Roman Pontiff. This can indeed be illustrated by what the Emperor Justinian decreed in law 1 C. concerning the investigation of ancient law, § 6. For Justinian, entrusting the most learned Tribonian and other most skilled men with the compilation of the Pandects, and granting them the power to interpret and amend the responses of prudent men, decreed: "That all who have contributed to this code, being prudent men, shall have authority, as if their studies had originated from the principal constitutions and had been uttered from our divine mouth." For indeed, we do all things with merit, because authority is imparted to them from us. Therefore, the Decretals of the Sacred Congregation of Sacred Rites (and it should be said that the same applies to the resolutions of other Sacred Congregations) possess the same authority, as if they had been pronounced from the mouth of the Roman Pontiff, because authority is delegable, although infallibility is not, which is personal and belongs to the Catholic Church and the Roman Pontiff in matters of faith and morals, teaching the Church according to

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its office. However, the question can be raised, and is raised, whether the same Decretals, which obtain the force of law for the reasons for which they are issued directly and immediately, also obtain the same force indirectly for other similar cases. To give an answer to this question, three kinds of Decretals must be distinguished: for some Decretals are general, either by themselves or by the explicit will of the Sacred Congregation; and these general Decretals are published by the will of the same Sacred Congregation, or are authentically sent to the sacred prelates, so that they may be known and put into effect; and regarding these Decretals, the aforementioned doubt cannot arise. Secondly, there are declarations of the liturgical law, which indeed, in a particular case, declare the meaning of the law, or what...

[*Latin ed. p. 565*]

XII. Quid sit citatum, vel quid sit illicitum, secundum regulas liturgicas: quid agendum, quidve non agendum in aliqua actione liturgica communi, et res huiusmodi. De hoc secundo genere Decretorum, haec notanda videntur: declarationes liturgicae legis aliae sunt magistrales; ita in foro ecclesiastico, quaedam Resolutiones appellantur, quae emittuntur post quaestionem ex professo tractatam, ut in aliquo puncto iuris quaevis ambiguitas auferatur: aliae vero tales non sunt, et idem incidenter tantum emittuntur. Si de primis agatur, nemo non videt eas declarationes ex se cum ipsa lege liturgica confundendas; nam determinant sensum legis. Si de secundis agatur, iterum est distinguendum: aut hae declarationes firmatae sunt a Sacra Congregatione usu et consuetudine, ut evenit, quando ad eas declarationes appellat, in aliis casibus similibus, petitione bas vel eadem quavis ratione confirmat; quo casu hae declarationes determinant pari modo sensum liturgicae legis, et cum eadem lege confunduntur. Aut illae declarationes desertae manent, sive novis declarationibus supervenientibus, sive quia non amplius commemorentur, atque negliguntur. Quando de illis agitur, quae cum lege liturgica confunduntur: nemo non videt eas declarationes ex se natura sua vim legis habere, et tantum extendi quantum lex ipsa extenditur: neque necessaria est nova promulgatio; nam non de nova lege agitur, quae indiget promulgatione, sed de interpretatione et declaratione authentica, cui sufficit certa notitia. Quando de reliquis agitur, hae vim universalis legis non habent: sed obstringunt tantum eos, quibus observantia Decreti praecepta sit. Neque id sit mirum: nam ea est SS. Congregationum sapiens praxis; maxime vero S. Congregationis SS. Rituum, quae in minimis et usque ad pulverem, ut ita dicam, cogitur descendere, ut quemadmodum in eo quod fuerit rite firmatum non recedant, ita nova emergente ratione, reque penitius considerata, a decisis recedant, sive nova declaratione, sive tacita contraria, vel dispari consuetudine; quamvis haec recessio a decisis in legum declaratione rarissime contingat. Tertium genus Decretorum sunt applicationes liturgicae legis ad factum. Haec Decreta

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natura sua vim universalis legis non habent: sed perspicax Ritualista ex his Decretis magis vel minus clare eruere potest, cum magno suo in scientia liturgica profectu, principia a quibus S. Congregatio mota est ad ita iudicandum: atque aptitudinem acquirere ad recte iudicandum, et valorem principiorum et legum iuste aestimandum. Posset utique et tertium hoc genus Decretorum vim legis quam...

[*Latin ed. p. 566*]

566 APPENDIX X I I . It does not possess validity from itself, but acquires it from elsewhere; namely, in the case where a new Apostolic authority should arise, which solemnly declares that these Decrees have the force of universal law. We have an example of this in the Decretals of Gregory X, which, for the most part, are nothing other than particular Rescripts of the Roman Pontiffs concerning particular matters: and by the authority of the Roman Pontiff, all such Rescripts have the force of universal law, and constitute the text of canonical law; just as, in civil law, the Pandects, which are composed of the wise responses of jurists, constitute the text of civil law by the authority of the Emperor Justinian. But these things, which seem true when considered in the abstract, present a difficulty in the concrete. For, in the concrete, doubt can arise in many ways: the first difficulty can arise from the authenticity of the Decree; and indeed, Barbosa mentions this in the Collectanea Apost. Decis. Y. Congregation n. 9: ”The 'Congregation' for Sacred Rites, on August 11, 1632, by a special order of His Holiness Urban VIII, ordered and decreed that the declarations of the same Sacred Congregation, whether printed or manuscript, should not be given any credence in judgment or outside of it, but only those that are provided with the authentic form, seal, and signature of the Cardinal Prefect and Secretary of the same Congregation at the time.” But a great part of the solution to this difficulty was found in the Gardellian Collection, which, since it is compiled by the Secretary of the Sacred Congregation by office, it is generally not doubted that the authenticity of these Decrees is certain; I said generally, for some doubt may arise in one or another Decree due to typographical errors, which often escape the vigilance of the editor: or due to some oversight of the compiler, which is part of human nature, when making a large collection. The second difficulty arises from the understanding of the Decrees; for it is not the case that the understanding of these Decrees is clear to all, as is fitting; nor do all easily find the consistency of the Decrees; nor do all know how to distinguish whether certain things are resolutions that have been abandoned or renewed or confirmed with extensions: nor what principles can be derived from the application of liturgical law to particular cases; all the more so because matters are often explained in the briefest possible summary. The third difficulty arises from the particular condition of places, or customs, which may be reasonable, so that the place does not allow for the abrogation

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of these same things. Therefore, when the Sacred Congregation was consulted about the universal obligation of these Decrees, it responded in such a way that, for each case and difficulty that may arise, it requires...

[*Latin ed. p. 567*]

APPENDIX Xli. 567. A particular authority exists in these matters, as if they were decided for all time, everywhere, and even more so, because the very Sacred Congregation, in Santo Ângelo, on September 11, 1847, was asked: "Does it seem fitting that the Decrees of the Sacred Rites Congregation, when answering proposed doubts, should be understood to apply to any other decree, even if it is contrary to the custom of a particular place?" The Sacred Congregation responded on April 8, 1854: "Affirmatively, but only in particular cases." From this explanation, it is clear that we are dealing with those Decrees which are included in the third type mentioned above; that is, those which have the force of law, and which are therefore suitable, by their very nature, to abolish customs. However, it is necessary to consider the particular circumstances, and in cases where the answer is affirmative or negative, and always in particular cases.

(1) This Decree is not found inserted in the authentic collection of Decrees, which bears the name of Gardellini, but we have copied it from the records of the Sacred Congregation; from which it appears that another similar text is erroneous, which, as if it were a Decree of the Sacred Congregation, was published in a certain learned Italian dissertation of this kind, with the same date and year. How this error occurred, we do not know; since the author of that dissertation, whom we know to be very knowledgeable in liturgical matters, affirms that he copied it from the original.

Furthermore, in a question proposed by the Order of the Capuchins, V I., the doubt was: "Can the Decrees, Indulgences, and Decisions of the Holy Rite Congregation, given or to be given in particular cases, be applicable and adopted in similar cases?"

[*Latin ed. p. 568*]

568 APPENDIX XII. ALMOST EVERYTHING DECREED WHICH IS RELATED IN APPENDIX III OF THE GARDELLINIAN COLLECTION, WITH SOME ADDED NOTES. STRASBOURG. Most Reverend and Most Reverend Lord, Having presented certain doubts to this Congregation of Sacred Rites for a proper declaration, the same were presented to the Most Reverend and Right Reverend Cardinal Ludovico Altieri, appointed as Prefect in this matter, in Ordinary Assemblies of the Sacred Rites held at the Quirinal, signed on the following dates, namely:

I. Whether a chalice, the inunction of which is merely renewed, can be simply touched by a priest of the episcopal order without unction, or whether, in this case also, it must be brought to the Bishop so that he may bless it with unction?

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II. Whether, in cities in which the bells are frequently rung and are also located far from the Bishop's residence, someone from the dignities of the Chapter, or a Prelate, can be appointed to bless new bells without unction?

III. Whether at least the highest dignity in the Chapter, while performing sacred functions in the absence of the Bishop, can carry the pastoral staff? Whether this is permitted, even in the presence of the Bishop, provided that the case is that the highest dignity is not of the episcopal order?

IV. Whether an auxiliary Bishop, having the right to carry the pastoral staff, can use it even in the presence of the Ordinary Bishop?

V. Whether those holding dignities in the Chapter, who use pontificals, have the right to carry the pastoral staff, and to solemnly bless the people, after first obtaining permission from the present Bishop?

VI. Some feasts were abolished in Austria by Pope Clement XIV, and the faithful were absolved from the obligation of hearing Mass on those days. Whether the parish priests are obliged to apply the Mass for the people on those feasts, as it is said, even though in the Bull of June 22, 1771, mentioned above, there is no explicit mention of this obligation.

The Sacred Congregation, after hearing the opinion of one of the Most Reverend Ceremonial Masters, decided to respond as follows:

To I. Regarding the first part, negatively; regarding the second part, affirmatively in both cases.

To II. If the bells serve the churches, and are for announcing sacred functions, then no.

To III. In the mind of the Congregation.

To IV. To be observed according to the disposition in the Ceremonial of Bishops, book 1, chapter 17, number 5.

To V. In the mind of the Congregation.

To VI. Affirmative (1). (i) We have explained a similar question treated in the Sacred Congregation in the Council through summaries of prayers in Fol. II, page 205 and following.

[*Latin ed. p. 569*]

APPENDIX: Sentences of the Most Holy Congregation concerning the Third and Fifth points: It is to be strictly adhered to the privilege, if it exists, and to the Apostolic Letters, namely, those of Pope Pius VII, dated July 4, 1823, and May 9, 1857. Our readers will not be displeased if we add here the aforementioned Apostolic Letters, by which the Most Holy Congregation ordered that the following should be observed: Pius, Bishop, Servant of the Servants of God. For the perpetual memory of this matter. § 1. It befits the Roman Pontiffs to diligently strive for the good of the Church, so that the privileges granted by them are strictly contained within the established laws, lest, through the fault of those to whom they are granted, the proper order be disturbed, and the rights of others be harmed. Therefore, with

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wise counsel, Our Predecessors considered it fitting, after first discussing the matter with the Congregation of Sacred Rites, to suitably define what rights are conferred by mitres, and the use of pontificals, and other similar insignia, by which Abbots, Prelates subordinate to the Bishop, and certain collegiate bodies are honored. Thus, Alexander VII, Our Predecessor of blessed memory, on September 27, 1659, before the Congregation of Sacred Rites, enacted a decree in which laws are established concerning the use of pontificals granted to Prelates subordinate to the Bishop; also, Benedict XIV, of blessed memory, published, on March 3, 1752, the Constitution, which begins "In the throne of justice," to approve the decrees which the same Congregation had published concerning the privilege of pontificals, which had recently been granted to the Chapter of Urbino. § 2. It is regrettable that these, and other decrees issued on this matter, through the passage of time, and sometimes even through their own ignorance, sometimes lack execution, and that many things completely contrary to their prescriptions have grown, which are seen to be detrimental to sacred matters, which, through the generosity of the Apostolic See, are intended to promote worship and religion, and even the splendor of sacred vestments. Therefore, frequent and serious complaints have been brought to Us, so that we may defend the majesty of the episcopal order against those who, through the communion they claim, attribute to themselves almost all the privileges by which the dignity of the episcopate shines, and that we may vindicate the careful observance of the Sacred Rites, which we are warned are impudently violated under the pretext of such concessions. § 3. Therefore, so that the abuse of such privileges would not be strengthened by the passage of time, we have decided to address this evil, using the remedy that those complaints, the equity of which we thoroughly know, demand: namely, to...

[*Latin ed. p. 570*]

APPENDIX XI. The Sacred Congregation, which has been established to regulate matters pertaining to the proper performance of sacred rites, has not infrequently endeavored to address the issue that we deemed necessary to rectify. Having recently received doubts concerning the use of pontifical vestments in the metropolitan church of Bari, the Congregation, in order to establish correct norms and to reiterate the regulations concerning this matter, has diligently examined the issue. Therefore, after carefully considering the reasons for the widespread abuse of this practice, and having determined that the granting of pontifical privileges to collegiate churches is a primary source of these abuses, the Congregation has decided to reiterate the rules governing this matter. Consequently, after having ordered that the reasons for the aforementioned regulations be thoroughly examined by the Congregation, a decree was issued by the Pro-Prefect on August 27th of the present year, and another in Urbino on January 29th, 1752, which

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we now add here, namely: "Regarding the certain indulgences granted by the Roman pontiffs, which are often accompanied by illustrious insignia of honor, and which have been customarily bestowed upon churches from ancient times, and concerning the doubts recently raised regarding the use of pontifical vestments in the metropolitan church of Bari, it has pleased Our Most Holy Lord Pope Pius VII to decree that the administration of sacred rites should be carried out with greater splendor and with more appropriate vestments, in order to inspire the people with a greater devotion to the divine service. However, since it is the condition of human affairs that things which are well-established are often subsequently misused, and that, contrary to the intentions of those who grant them, privileges are unfortunately perverted, it has become necessary to address this issue. Therefore, the following articles are established by this decree, which declare the pontifical privileges to be merely honorary, and which establish certain rules to restrain the abuse of these privileges and to enforce the proper observance of the prescribed rituals. Furthermore, by the authority and wisdom of this decree, the following is established:

I. Those who are inferior to the Bishop in rank, whether by reason of their office, their actions, or their persons, may celebrate pontifically, provided that they do so with moderation and in accordance with the established regulations, and only on those days and in those churches which have been granted this privilege by the ecclesiastical hierarchy.

II. To remedy this evil, and to prevent the abuse of pontifical jurisdiction, it is hereby decreed that...

[*Latin ed. p. 571*]

x xii. 571, and they are bound in all other matters to observe most strictly the general decrees of Alexander VII, confirmed by Benedict XIV. VIII. Under the general name of pontifical ornaments, which are sometimes granted to more important Chapters by the special privilege of the Apostolic See, it is understood that only those pontifical ornaments are permitted in churches that are not exempt, as has been decided repeatedly by the Holy Congregation; even if an express permission from the Ordinary is present, neither shoes nor sandals adorned with gold or silver, nor silk gloves, are permitted. XV. Dignitaries, Canons, Rectors, the dalmatic, the chasuble, the pectoral cross with a single gem, the stole without a gem, the mitre made of white cloth with silk lappets, all of these are forbidden to be used in the rites and ceremonies pertaining to Bishops and Archpriests. X. Only a Dignitary, a Canon, or a Rector, solemnly celebrating, may use any pontifical ornament, except with a special privilege from the Apostolic See. V. Any privilege granted by the Apostolic See to Dignitaries, Canons, Rectors, or by any other name, for the purpose of enhancing the splendor of certain churches, is to be strictly interpreted as being detrimental to the dignity of the episcopacy. Therefore, nothing else is to be understood as

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being granted, except that which is expressly stated, and no consequence can be drawn from one indulgence or privilege to other things which have not been individually described. VI. Nevertheless, even with a privilege granted, not everything is permitted to everyone, but a distinction must be made between the Celebrant and the Assistants with pontifical ornaments. VII. For certain pontifical ornaments may be permitted to the Celebrant, but not to the Assistants, while Dignitaries, Canons, Rectors, etc., must wear the sacred vestments. Unless, of course, the privilege permits not all of these things, but only some of them. X. Those who act as Deacons and Subdeacons at a solemn Mass, even if they are Dignitaries, Canons, etc., may use the mitre, nor any other pontifical garment, nor the maniple, if they are permitted by privilege, for the Gospel and the Epistle. XI. It is permitted for Dignitaries, Canons, Rectors, etc., to celebrate Mass solemnly with pontifical ornaments only on those days on which they celebrate in place of an absent or impeded Bishop, or in the case of the death of a Bishop, or on those days on which the Bishop is present, or should be present, with the pluvial and mitre. On all other days, even if solemn, they should celebrate in the usual manner. XII. In churches of the city and diocese, it is not permitted for them to celebrate with pontifical ornaments, except in the case of...

[*Latin ed. p. 572*]

572 CONCERNING the rights and solemnities, with the consent of the Bishop and the assistance of the Chapter. X. They shall wear the alba, or stole, or dalmatic in processions of the Most Holy Body of Christ.

XIII. However, these same vestments shall never be worn in Masses for the dead, or at blessings of candles, ashes, or palms, even if the Bishop is present, unless he performs these functions with the pluvial and mitre, but they shall celebrate in the usual manner.

XIV. If a Dignitary, or Canon, etc., is designated by the Bishop to admit a girl to the religious habit, or novitiate, to complete her novitiate, or to make her solemn profession, they shall not use pontifical insignia, unless expressly permitted by the Bishop, and even then, only those things that are appropriate to the action.

XV. When celebrating with pontifical vestments, they may not use the faldstool, especially if the Bishop is present, but they must sit on a stall covered with a cloth or banner of the color appropriate to the day.

XVI. Furthermore, neither in a solemn celebration, nor in a private Mass, may they take sacred vestments from the altar, such as the cope, or the maniple, but a presbyter assisting shall greet the people with the words "Peace be with you," and shall give the blessing after Mass, or with the Sacrament, and if there are other things that belong only to the Bishops, and which are not expressly mentioned in this privilege, they should be considered forbidden.

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XVII. Dignitaries, Canons, Rectors, etc., when properly assisting a Bishop celebrating pontifically, may only wear the mitre, and may likewise wear the sacred vestments, namely the pluvial.

XVIII. They shall not use a cushion under their knees, especially if the Bishop is present.

XIX. An acolyte shall not be used to hold the mitre with a silk or woolen veil hanging from the neck, unless for a Dignitary, Canon, Rector, etc., solemnly celebrating, or carrying the Sacrament in processions.

XX. Dignitaries, Canons, Rectors, in place of the Bishop, shall say "Peace be with you," and shall give the blessing after Mass, or with the Sacrament, wearing the sacred vestments of the Most Holy Body of Christ, and shall carry the mitre in their hand, but shall not cover their head with it.

XXI. Furthermore, all other things that belong only to the Bishops, and which are not expressly mentioned in this privilege, but which are granted to the lower Prelates on certain days, should be considered forbidden.

XXII. In private Masses, with regard to vestments, ceremonies, ministers, and the adornment of the altar, they shall not differ from simple priests: they shall take the sacred vestments from the sacristy, shall not wear the mitre, shall use the pectoral cross, and shall be content with a single minister; they shall not wish to have water brought to them in a basin.

[*Latin ed. p. 573*]

XII. Only the ceiling shall be painted, and only two candles shall burn upon the altar. XXV. The deceased shall not be carried out in a catafalque, nor buried with a mitre. XXVI. In the funerals or anniversaries of the deceased, the mitre, which is usually placed upon the tomb, shall not be placed there. XXVII. In the coats of arms or emblems of a family, the mitre shall not be placed, except in the single case in which it has been expressly permitted in Apostolic letters. XXVIII. If any doubt should arise concerning the foregoing, it shall be referred to the Sacred Congregation, which, according to the nature of the doubt, will provide a solution. If any chapters should believe that they have been granted more extensive privileges than those established in this decree, they shall present these special rights to the Sacred Congregation, so that what is deemed appropriate according to the prescription of the canons may be decided.

§ 4. We have carefully considered this decree, and the reasons upon which it is based, as well as the other prescriptions of the Holy See, by which it is supported. Since experience demonstrates that the use of such privileges often leads to more inconveniences, and especially detracts from the splendor of the episcopal dignity, which it is Our duty to protect everywhere and to uphold, We hereby approve and confirm this decree, so that its provisions may remain firm and be observed more carefully by all. We add to it the strength of perpetual and inviolable validity, and We grant it

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force and effect, and We command that it be observed and fulfilled firmly and inviolably by all those to whom it applies, and by all in the future, and that no one shall ever deviate from its observance and fulfillment.

§ 5. Furthermore, by these Our Apostolic letters, We wish to bring to mind again, and We approve and sanction anew, those things which were previously prescribed by Our Predecessors, and especially by Alexander VII, of blessed memory, in the aforementioned decree of September 27, 1659, and in the declaration issued under July 20, 1660, and also by Benedict XIV, of blessed memory, in his Constitution, which begins "In throno iustitiae," and by other prescriptions of the Congregation of Sacred Rites, concerning the use of pontificals by Bishops and other clergy.

§ 6. Therefore, We command by these Apostolic letters to the venerable Brothers, Patriarchs, Primates, Archbishops, and Bishops, and to other local Ordinaries, that they cause the present letters, and all the provisions contained therein, to be carried out with due authority, and that they be observed inviolably, and that any who contradict or disobey be restrained by appropriate legal and administrative measures, with a warning given beforehand.

[*Latin ed. p. 574*]

574 §. 7. These matters, pertaining to the twelfth appeal, are being considered; and indeed, if they were to be interrupted, the people might well experience considerable astonishment. The Sacred Congregation responds: To the first question, affirmatively. To the second question, negatively. To the third question, the custom should be maintained. etc. g. 8. Notwithstanding, etc. Given in Rome, at the most holy Mary Major, in the year of the Incarnation of the Lord 1823, on the fourth day before the Ides of July, in the twenty-fourth year of Our Pontificate. PARMENSIS. The Most Reverend Felix Cantimorri, Bishop of Parma, burning with the desire that the Sacred Functions be performed in his Diocese with due observance of the rites and with diligence, humbly requested a solution to the following questions from this Sacred Congregation for Sacred Rites: I. Whether, in processions held on the feast of Saint Mark and during Rogation days, it is permissible to sing antiphons in the churches that the procession enters, according to the Paschal rite? II. Whether, in churches through which a procession passes, if the recitation of the litanies of the saints is interrupted, it is permissible to invoke the names of the titular saints, even if these names are not present in the same litanies? To the first question, negatively. To the second question, negatively. The opinion of the Sacred Congregation is that the Bishop should consult the observance of the rubrics, but whenever it can be done prudently and without causing scandal, and when such a practice, such as this one opposed to the processions, can be gradually eliminated, it should be done. On May 9, 1857. OF THE MOST HOLY NAME OF JESUS. The Most Reverend Romualdus X, the current Bishop of the Diocese

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of the Most Holy Name of Jesus, humbly requested this Holy Apostolic See to deign to declare and resolve the following questions: III. Whether the bells of the same churches should be rung with festive sound? IV. Whether a priest, offering the holy water at the doors of the church to the clergy entering, should wear a violet stole? I. Is it permissible to celebrate Mass and the Offices on Holy Saturday in the Episcopal oratory before the parish Mass is celebrated? In the negative case, I request of the Holy See that I be granted the grace of celebrating the aforementioned Offices in case of necessity, which cannot be postponed to the second day of Easter? V. Whether the hymns "O gloriosa Virginum," "Ave Maris Stella," and "Veni Creator Spiritus" can be sung in the same processions, when the recitation of the litanies is interrupted, before certain images and shrines encountered along the way? VI. Can the sacred oils be consecrated on the fifth day of the week of the Greater Easter, before the Conventual Mass? In the negative case, I beg that Your Holiness deign to grant me the grace of consecrating the aforementioned sacred oils, and of giving...

[*Latin ed. p. 575*]

IX. XII. The Communion in My Sacrifice should be offered to all Priests and other Churchmen, not only because of the greater ease in finding a sufficient number of Priests who ought to assist at the Consecration, according to the Pontifical Rubrics, but also for the convenience of the Clergy who will partake, since Churchmen are of weak stomach, and a greater part of them cannot, unless with great difficulty, remain fasting until the end of the Divine Offices.

III. It is a very common custom in this Diocese to transfer the celebration of the Solemn Mass of the Principal Patron of the Church, which occurs on a day of fasting, and abstinence, so that the Faithful may not eat meat, nor mix it with fish, should they happen to have it on such a solemn day. The Mass is celebrated, although it is of the double rite with the Gloria, etc., as if it were a votive Mass for a grave matter. Can this custom be tolerated? If the answer is negative, I request from Your Holiness the faculty for all the Faithful of this people, whose Patron is being celebrated, and for those attending, to be allowed to eat meat and fish on that day of the Patron's feast, which is a day of abstinence or fasting; on the contrary, it will be impossible to avoid the transgression of the precept of either the fast or the abstinence. Very few obtain a Bull of the Holy Cross to this effect, so that they may safely eat meat. If, however, Your Holiness judges that this special grace should not be granted, I ask that the grace be granted to transfer the solemn celebration of the votive Mass, as if it were for a grave matter.

IV. In the Parish Church of this City, where the Confraternity of the Most Holy Rosary is founded, there is a custom of celebrating one sung Votive Mass of the Blessed Virgin every Sabbath, according to the arrangement of the venerable memory of Salamanca, the Bishop of this Diocese. It is asked

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whether this arrangement of singing the Votive Mass of the Blessed Virgin can continue, solely for the reason of the greater devotion of the people towards the Blessed Virgin, and the greater attendance of the Faithful at said Mass, and at other Masses during the week?

V. In this Diocese, there is a custom, perhaps from the very beginning of its erection, of placing in the Calendar of the Divine Office all the Saints placed at the end of the Breviary for the Kingdoms of Spain, and regularly on their own day, even though it is occupied by the double Office of the Saint in the body of the Breviary. Furthermore, some of the Saints mentioned above have their own Office for all the Hours, and are recited by all Churchmen of this Diocese. Moreover, the feasts of Saint Vincent the Martyr, Saint Julian the Bishop and Confessor, Saint Ildefonsus the Bishop and Confessor, and also of Saint Elizabeth the Queen, are celebrated with the double rite of the second class, with the Octave, as stated in the Code at the end of the Breviary.

[*Latin ed. p. 576*]

576 APPENDIX XII. are added, so that on the Feast of Saint Vincent, who is found in the body of Christ at Brest, nothing should be done concerning the Feast; it should be transferred to the twentieth day of February, to be celebrated with a semi-double rite; provided that a votive Mass should be celebrated each Saturday with singing, provided that it is not asked whether the aforementioned custom of this Diocese is a sufficient reason for transferring the Feast of all the Saints of Spain, with its proper office, if it is ancient and has been observed; in this case, I humbly request that the Calendar be communicated to me, so that I may examine and approve the Saints and the rite by which the Divine Office should be performed in this Diocese.

The Sacred Congregation responded:

I. The Bishop should use the decrees previously issued in Bergamo, on March 21, 1744, number 1, and in the Resolution of Doubts of July 28, 1821, number 2 (1).

II. Negative in all cases.

III. Negative, unless there is a special Indult, which the Sacred Congregation grants in the present case for a single votive Mass on each Saturday. But since this practice is contrary to the Decrees of the Sacred Congregation of Rites, I ask whether the aforementioned custom of this Diocese is a sufficient reason for transferring the Feast of all the Saints of Spain, with its proper office, if it is ancient and has been observed; in this case, I humbly request that the Calendar be communicated to me, so that I may examine and approve the Saints and the rite by which the Divine Office should be performed in this Diocese.

On May 9, 1857, PETROCORICENSE.

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When the Most Reverend John Baptist Massonais, Bishop of Petrocoriense, supplicated with pious requests from this Holy Apostolic See, he requested that the following Doubt be declared:

(1) In the aforementioned Bergamo, the following Doubt was proposed: "Whether on Holy Saturday, for the collation of the Sacred Orders, the Bishop is obliged to celebrate Mass with the prophecies, as in the Missal." To which the Sacred Congregation responded: "Affirmative; that is, for the collation of the Sacred Orders on Holy Saturday, Mass must begin with the prophecies."

In the other aforementioned case of the Resolution of Doubts of July 28, 1821, the following Doubt II was proposed: "Whether on Holy Saturday, Mass celebrated privately by the Bishop in his domestic chapel, for the reason of Ordination, or by other Priests (if there are any) who enjoy this privilege, should begin with Kyrie, or with the Prophecies." To which the Sacred Congregation responded: "Regarding Bishops for the reason of Ordination, the prescription of the Pontifical should be observed, and the Decree of the Sacred Congregation of March 21, 1744, in Bergamo, and Mass should begin with the Prophecies. Regarding others, if any enjoy this privilege, in the usual manner, but without an entrance, after the ringing of the bells." This Decree was explained by Gardellini in the annotation which he appended to it.

(2) Dispensations from fasting and from the consumption of prohibited foods must be requested from the Sacred Congregation of the Inquisition.

[*Latin ed. p. 577*]

X XII. 577 In some places, processions are held, and very often, the Blessing with the Most Holy Sacrament is administered. When, however, the priest celebrating at such Vespers has, from time immemorial, as it is said, been accustomed to wear the stole over the chasuble, the Orator requested from the same Holy See that it might deign to declare whether the custom of wearing the stole can be maintained.

I. Can the stole be worn?

II. What if the Word of God is proclaimed at Vespers?

III. What if the stole is worn?

The Sacred Congregation of Rites considered the matter and decided: "Affirmatively regarding the first part; negatively regarding the second (1)." May 9, 1857.

The parish priest of the church called Val-loires in the diocese of Maurienne reported to this Holy See that, on all days of the week and on festive days, Vespers are sung there with the attendance of the entire parish, and that the Word of God is proclaimed.

The Sacred Congregation of Rites considered the matter and decided: "Negatively in all cases, and the Decrees, especially the General Decree of

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September 1, 1816 (2), must be observed." May 9, 1857.

DINIEN.

When a parish priest, or other priests who are obligated to perform the Office for the Dead, and who assist at the same functions and receive a salary for it, are required to personally recite the Office; so that only those who assist, and do not sing or chant, would not fulfill their own obligations; or whether it is sufficient for the choir to recite the Office, while those present, in the meantime, offer other prayers at their own discretion, such as reciting the Breviary for their daily obligation?

(1) Reference can be made to what Benedict XIV states in his work on Diocesan Synods, volume 1, chapter 3, concerning canons who assist in the choir and do not sing.

(2) General Decree: "Although, despite the Decrees of the Sacred Congregation of Rites, issued on several occasions, and particularly in the Alexandrian Decree of September 7, 1658, and the Dalmatian Decree of August 4, 1663, which warned against the use of the stole in performing divine services, except in the preparation and administration of the Sacraments, this abuse has persisted and is still present among Archpriests and Parish Priests of the Abbey of Farfa. After hearing information from the Most Reverend Abbot, the same Sacred Congregation declared: The stole is not to be used except in the preparation and administration of the Sacraments, and therefore, the custom to the contrary is an abuse that must be completely eliminated by the local Ordinaries. September 7, 1816."

The Secretary then reported the above to His Holiness; His Holiness approved the opinion of the Sacred Congregation, graciously confirmed it, and ordered the Decree to be promulgated, on the 10th day of the same month and year. Acts, volume III, page XXXV, 37.

[*Latin ed. p. 578*]

578 APPENDIX: Those who are not members of the Chapter, it is prescribed that they bow, both before the Altar and before the Bishop, whether in a pontifical manner, or simply with a cap or mozzetta. The Bishop of Dinieo, observing that in his Cathedral Church, for a long time, it has been customary for those present to incline only the head and shoulders, requested that this Sacred Congregation deign to declare whether this custom may be followed. The Sacred Congregation decided to respond. "No, and the Ceremonial of Bishops must be observed." May 9, 1857. PEKING AND OF MONGOLIA. When the Most Reverend Joseph Marziale Bishop of Fessula, in part, the Apostolic Vicar of Mongolia and also the Apostolic Administrator of Peking, earnestly requested a solution to certain doubts from this Apostolic See, it pleased the Most Holy Pope Pius IX, with the reference of the Reverend Father Secretary of the Congregation of Propaganda Fide, to entrust the examination of these doubts to the Sacred Con-

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gregation of Rites. The doubts proposed by the Bishop are as follows: I. By common law, does the Apostolic Administrator need to, or can he have a seat (Solium) from the Gospel side? II. Does he need to, or can he have it even in all places of his Diocese? III. If affirmative answers are given to the first and second questions, does the Coadjutor Administrator need to, or can he use the seat in the same way everywhere, just as the Apostolic Administrator? IV. Decrees which state that the Apostolic Vicar cannot do so in his Vicariate, and the Bishop in his Diocese, and which prohibit him from doing more, including being named by priests in the Canon of the Mass, are entirely silent regarding Apostolic Administrators, from which it seems to follow, especially regarding the Apostolic Administrator of the Diocese of Peking, that he should be subject to these various prohibitions contained in the aforementioned decrees in his diocese, and that he can be named by priests in the Canon of the Mass, etc. Can the present Apostolic Administrator of Peking prudently follow this interpretation in the places of his Apostolic Administration? The same Sacred Congregation, adhering to decrees issued in similar cases, especially in one from Sarsinaten, dated August 22, 1722, decided to respond: "No, in all respects, according to the aforementioned decree in Sarsinaten, dated August 22, 1722." May 9, 1857. (1) In the aforementioned Sarsinaten, ten doubts were proposed, of the following tenor: I. "Does the modern Bishop of the city of Città Ducale, as administrator of the church of Sarsinaten, enjoy all those eminences and prerogatives with which all other Bishops enjoy in their own dioceses, in this case, etc.?"

[*Latin ed. p. 579*]

X. XII. Otherwise, concerning parishes: Are there parishes whose patron is declared by the Holy See? To this question, the Sacred Congregation has responded in writing: "All doubt ceases if the church of Larissa, which is also sometimes called the patron of the church, is distinguished from the patron of the diocese, namely, that the patron of the diocese is to be venerated along with the feast days prescribed in those places which particularly venerate a certain saint as their patron; however, the General Vicar of the diocese of Briocen further requested from the Sacred Congregation whether this saint of the place is the same as the parochial saint of the city; and, whether affirmative, he requested whether, or whether negative.

II. Can the aforementioned administrator of a vacant church, while celebrating Masses and Vespers in pontifical ceremonies, sit upon the elevated episcopal chair prepared with four steps, a baldachin, and a backdrop, and use a staff?

III. Can he be granted an indulgence of forty days without special apostolic permission?

IV. When he attends a solemnly sung Mass celebrated by another, must the canons perform the circuits at the Kyrie eleison, Gloria in excelsis,

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Creed, Sanctus, and Agnus Dei, and where should he then sit?

V. Should an anniversary of his consecration be celebrated with a sung Mass by the chapter and clergy of his diocese, and should his name be mentioned in the Canon by the celebrating priests?

VI. When the administrator celebrates Mass in pontifical ceremonies, should a seventh candlestick with a lit candle be placed upon the altar?

VII. Should all the canons be vested in sacred vestments when he celebrates Mass in pontifical ceremonies; or should only three, performing the offices of deacon, subdeacon, and presbyter, assist?

VIII. When he goes to the cathedral, should he take the mitre in the upper buildings of the bishopric, or at the entrance to the church, or at the presbytery?

IX. Should all the canons receive him upon entering the cathedral in those buildings, or only three, or four at the door of the church?

X. Should public prayers be made on feast days for the election of a new bishop, according to the form of the Council of Trent and the Ceremonial of Bishops?"

To which the S. C. responded:

I. Negatively.

II. Negatively regarding the first part, affirmatively regarding the second.

III. Negatively.

IV. Negatively, and he should sit in the first stall of the choir.

V. Negatively.

VI. Negatively.

VII. Negatively regarding the first part, affirmatively regarding the second.

VIII. At the administrator's discretion in this case, etc.

IX. It is fitting in the case in question that all should attend.

X. Affirmatively.

[*Latin ed. p. 580*]

580 APPENDIX XII. concerning the rules established in the Decree of His Holiness Alexander VII, dated September 27, 1659 (I). On May 9, 1857, the Calendar Office of the Diocese of Cahors presented its supplications to the Holy Apostolic See, requesting that the following doubts be clarified:

I. Concerning the Indult granted in Rome on December 2, 1852, for the Diocese of Cahors, which approves the singing of Vespers for the Dead four times a year, after the Vespers of Sunday, according to the ancient and laudable custom, and the solemn celebration of Mass for the Dead on certain days; provided that this does not conflict with the double observance of

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the First or Second Class, the observance of obligatory feasts, or privileged weekdays, vigils, and octaves. Since these rites are celebrated for the benefit of all the deceased, the following questions are asked:

1. Are the aforementioned Vespers to be sung with a double rite?

2. Is the Psalm "Praise the Lord, O my soul, in my life I will praise the Lord" to be sung in them?

3. Is the single Prayer of the Faithful "Deus" to be said, or rather, the three prayers noted in the Breviary?

4. What solemn Mass is to be sung the following day, namely, the First Class Mass, or a Mass from the daily Office?

II. From another preceding Apostolic Indult granted on the same year, 1852, on November 18, the Diocese of Cahors is also granted the permission for Masses for the Dead with singing to be celebrated three times a week in each parish church of the diocese, provided that the Offices permit the double observance; however, always excluding the double observance of the First and Second Class, the observance of obligatory feasts, weekdays, vigils, and privileged octaves. Since, according to the rubric, Masses for the Dead cannot be celebrated on the second, third, fourth, and fifth of January, the question arises: whether, by virtue of the aforementioned Indult, it is permissible to sing Masses for the Dead on the aforementioned days, and especially the Masses for the third, seventh, thirtieth, and anniversary days?

III. In the Diocese of Cahors, there are no, or very few, properly called anniversaries; but on approximately the eighth day, or the anniversary of the death, several Masses are celebrated for the deceased, with a large gathering of relatives and friends. Hence, the following questions are asked:

1. In this case, can a Mass for the Dead be sung, assigned for the seventh day or the anniversary, with a double rite, or rather, should this Mass be taken from the daily Office?

2. Can all the Masses be celebrated or sung for the Dead during the time that a double feast occurs, or should Masses for the feast itself be celebrated?

IV. In almost all churches, (i) Alexander VII, by that Decree, restrained excesses in the interpretation of Indults concerning the cult of those not yet canonized as Blesseds, and renewed the Decrees so that Blesseds should not be chosen as patrons, nor their feasts celebrated with octaves, etc.

[*Latin ed. p. 581*]

APPENDIX XII. The Diocese of Cadurcen. Three days before the Fourth Sunday of Lent, the Forty Hours Prayer is celebrated. In that Prayer, according to the Clementine Instruction, the Mass for Peace is to be sung on the second day, with the color "violet," or "Gloria," and without the Creed; this Mass, indeed, is not to be sung, neither at the altar where the

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Most Holy Sacrament remains exposed for the public veneration of the faithful, nor at the altar where the Most Holy Eucharist is reserved in the Tabernacle. Since the custom of celebrating a Solemn Mass with singing at the main altar, where the Most Holy Sacrament is exposed, for three days during this period has prevailed in the Diocese of Cadurcen for countless years, the following questions are raised: 1. Is this established custom to be maintained, or rather, should it be eliminated? 2. Is it necessary to sing the Mass for Peace, or can it be supplied by another Mass, either of a feast day or of the Most Holy Sacrament, according to the rubrics? 3. During the three days of the Greater Week, namely, on the fifth day, which is the Friday, on the sixth day, which is the Saturday, and on the Holy Saturday, must all of the clergy, including the canons, kneel before the Cross at the altar, according to the rubric? 4. Since the Nocturnal Office of the Friday of the Lord's Supper is said on the Thursday at the appropriate hour, is it necessary to kneel before the aforementioned Cross from the beginning of the Matins of the Friday? Also, is this kneeling to be done throughout the entire Holy Saturday, or only until the Matins of the Feast of the Resurrection of the Lord is read or sung on the Holy Saturday? The Holy Congregation has decided to respond as follows: Regarding the first question, negatively; regarding the second, affirmatively; regarding the third, negatively in the first part, and affirmatively in the second part; regarding the fourth, negatively in the first part, and affirmatively in the second part. Regarding II: Affirmatively. Regarding III: Regarding the first question: Mass is to be said daily, unless it is a true Sunday or a day of obsequies; regarding the second question: negatively in the first part, and affirmatively in the second part (1). Regarding IV: Regarding the first question: Adherence should be given, as much as possible, to the Clementine Instruction; regarding the second: the Votive Mass for Peace can be supplied by another Votive Mass from those contained in the Roman Missal, at the discretion of the Bishop. Regarding V: Kneeling before the Cross is to be done from the beginning of the adoration on the Friday in Parasceve until the None of the Holy Saturday, inclusive. May 9, 1857. RUREMUNDEN. Professor of Rubrics at the Seminary of Ruremunden, in the Netherlands. To the Congregation of Sacred Rites. This matter has a certain affinity with the question that we introduced in Volume I, page 42.

[*Latin ed. p. 582*]

APPENDIX XLII. The following questions were proposed for appropriate clarification:

I. Whether the Vigil of a feast day can be transferred, if the feast day itself, which has a Vigil, has been permanently transferred to a fixed day, as happens in the city of Roermond, where the feast of Saint James the Apostle is transferred because of the occurrence of the feast of Saint Christopher, the patron saint of the cathedral church? (1)

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II. Whether the patron saint of a cathedral church must be celebrated by the clergy outside the city with a double rite?

III. Whether one fulfills his obligation by offering a Mass for the deceased, or in honor of a saint, by singing the Mass, for example, of the Venerable Sacrament on the fifth feria, or of some other saint, on a day of the week determined by custom.

IV. Whether one who is obligated to read in honor of the Seven Sorrows, within the Octave of the Blessed Virgin Mary (on a day permitting the reading of votive Masses), can say the Mass of the Seven Sorrows, or must he say the Mass of the Blessed Virgin within the Octave?

The Holy Congregation has responded in writing.

To I: Negatively.

To II: Let a Decree be given in Bosa, on August 22, 1772, regarding Question V. (2)

To III and IV: The questions are clarified.

May 6, 1857.

PORTUS ALOISII.

Since the Holy Congregation for the Propagation of the Faith has deemed it appropriate to send certain questions from the Most Reverend William Bernard Allen Collier, Bishop of Portus Aloysii, to this Holy Congregation for the Rites, for clarification, the undersigned Secretary of the Holy Congregation for the Rites has presented these same questions, in the same order in which they were proposed, at the current Ordinary Meetings of the Holy Congregation for the Rites at the Quirinal, namely:

V. Whether, in the response given by the Holy Congregation for the Rites on September 7, 1847, in Turin, regarding the second question, which concerns the singing of Masses for the Dead, the words of the supplication *Suffragium* include the *Dies irae*, which can scarcely be called a prayer or supplication? Also, whether the Offertory must necessarily be sung in these Masses? (1)

(1) It is not inappropriate to recall here the Decree of the Holy Congregation of Indulgences, which concerns indulgences in the transfer of feasts, which we have included in Vol. I, page 489. (2) In the aforementioned Bosa, Question V was proposed in these words: "Should the feast of the Conception of the Blessed Virgin Mary, which is the title of the cathedral church, be celebrated with a double rite of the first class, both in the city and in the diocese, and by both clergy?" To which the Holy Congregation responded: "Affirmatively."

[*Latin ed. p. 583*]

ix xii. 583 I I . Concerning the custom of administering Extreme Unction

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and elsewhere, a book is published which maintains the contrary practice; after considering, it was deemed fitting and proper that the Order for administering the Sacraments, extracted from the Roman Ritual, be distinguished between the duties of the Chaplain and the simple Priest, and it was written: "With a dipped stylus, or with the thumb in the Holy Oil, etc." When the theologians are not of one mind concerning the custom of applying the stylus in this sacred Unction, and the theologians themselves conclude that it is permissible to follow the custom of one's own diocese; it is asked: Is it permissible in the diocese of Portus Aloysius for Chaplains, and a fortiori for Parish Priests, to publicly use the silver stylus in the administration of Extreme Unction? The Sacred Congregation has responded.

To I. Affirmative.

To I I . Negative, unless there is a necessity.

To I I I . Negative, in all cases.

To I V . The custom of the place should be maintained.

May 9, 1857.

EBROICENSIS.

When the Most Reverend Bishop of Ebroicensis humbly requested that the following questions be declared, namely: I. The Canons of the Church of Ebroicensis, when celebrating Mass, wear the sacred vestments at the altar of the Bishop: can this practice be tolerated? H. The same Canons, while walking through the city of Ebroicensis, wear the pallium, or mozzetta: can this practice be tolerated?

VELITRIS. In the year 1824, on March 27, a response was written. "Considering the memorable use, after mature deliberation, and with reason, that the general decree (1703) does not prevent, even in the city,..."

[*Latin ed. p. 584*]

584 APPENDIX XI.III. The same Canons inquired whether the use of the pallium, commonly called the *Sutola*, is permitted, not only in the choir of the Cathedral Church, but also in other churches where the Sacred Mysteries are celebrated?

To this, the Sacred Congregation responded: Decrees have been issued on this matter in the following places: in an uncertain location in Milan, on August 18, 1629; in Cusenza, on July 5, 1631; in Padua, on June 17, 1673; and in Rieti, on May 19, 1838 (1).

(1) The following Decrees are cited: In an uncertain location in Milan. When, on the part of Cardinal Borromeo, Archbishop of Milan, a request was made to the Sacred Congregation to declare: "Whether a Prelate, appointed as Prefect of a Collegiate Church, or a Canon about to celebrate Mass privately, may take the vestments from the altar, with the ministry of even lay servants, and whether he may use the presbytery or the stall?"

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The Sacred Congregation, adhering to a Decree previously issued on July 7, 1612, in which it was stated that this only applies to Bishops celebrating privately, who must take the sacred vestments not from the sacristy, but from the altar, and must have two ministers wearing cassocks, who should attend to him and serve him, as declared in the *Caeremoniale Episcoporum*, book 2, chapter 29, responded: "To others celebrating privately, and especially to Prefects, it is by no means permitted, and therefore they must entirely abstain from the aforementioned practice."

In Cusenza. "The Canons of the Cathedral of Cusenza reported: The General Vicar was taking vestments for the celebration of Masses from the altar, using three cassocked assistants with four candles lit, which is expressly prohibited by the aforementioned Decree of the Sacred Congregation." The Sacred Congregation forbade the General Vicar of the Diocese of Cusenza from taking vestments from the altar for the celebration of Masses, nor from using more than three cassocked assistants with four candles lit, and declared: "The aforementioned Vicar must take the vestments in the sacristy, with only one minister wearing a cassock, and with two candles lit."

In Padua. "It was reported that some Canons of the Cathedral of Padua, celebrating private Masses, claimed that it was permissible for them not to take the vestments from the sacristy, but to place them on the altar, on the side of the Gospel, where, as they approached, they would take the vestments and put them on, standing on the steps, and with the assistance of one or two clerics, near the same side of the altar. This, they claimed, was in accordance with an ancient custom, which grants a privilege and has the force of a title, and this custom was permitted in the *Rubrics of the Missal*, chapter 1, paragraph 1, where it says: 'Then he shall go to the place prepared in the sacristy, or elsewhere, where the vestments and other things necessary for the celebration are kept.' And in chapter 2, paragraph 2, it says: 'If he has taken the vestments at the altar.' And some others objected to this, claiming that it was prohibited, both by the Decree of the Sacred Congregation inserted at the beginning of the Missal, where it says: 'Notwithstanding any pretext, and contrary to custom, which has been declared an abuse'; and also by another Decree issued on September 27, 1609, which prohibits all and every one, even those who have the use of Pontifical vestments, from taking the aforementioned vestments from the altar in private Masses, and orders that they be taken from the sacristy, and that this be observed by two senior Canons, and that it has been observed by some other Canons, now deceased, who took and have taken the aforementioned vestments from the sacristy."

The Sacred Congregation, whatever may be the justification for the aforementioned ancient custom, since it is supposed, as stated above, that it has

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not been observed by all, and is not being observed, and not...

[*Latin ed. p. 585*]

APPENDIX XII. 585 To His Eminences and Reverend Fathers. It was stated that the Decrees are observed, if to the aforementioned Colleges, and especially the general one of May 31, 1817, the privilege of the Church is granted by Apostolic confirmation from Our Most Holy Father, Pope Pius VII, fortified by his own Cross (1). However, the Sacred Congregation wrote on May 9, 1857: "Nothing is to be innovated in the meantime."

ISCLAN. In the City of Rome, May 9, 1857.

AVENIONEN. Canon of the Metropolitan Church of Avignon.

The Reverend Father, to the Most Reverend Congregation, presented the custom that prevails in this Diocese, whereby the Chapter of the Collegiate Parish Church of the Holy Spirit, under its own Cross, proceeds in public Supplications to the Holy Roman Church, namely, that it should proceed, even if the Cathedral Chapter intervenes, except only for the true associations, in which it is customary to proceed not under its own, but under the Cross of the Cathedral Chapter. Moreover, the Reverend Father, lest this manner of acting give rise to future disputes, deemed it opportune to state, even if it should be alleged that the aforementioned Decrees have not been received in practice in the aforementioned church of Padua, and to include the case of the canons of Padua, since they do not allege that they take the sacred vestments from the altar, that is, standing on the level of the altar, as the Bishops do, but they approach the altar and take them in the altar itself, and not in the middle of it, but in the corner: he declared, adhering to other declarations: that it is not permitted, nor is it permitted to the canons of the Cathedral of Padua to take the sacred vestments either from, or on, the altar, notwithstanding any alleged custom, even if it is ancient, to the contrary, which he declared to be an abuse subject to prohibition, and contrary to the interpretation or distinction of the rubrics of the Missal and the Decrees. And thus he wished and ordered that everything be observed and carried out."

Reatina. A similar custom existed in the Cathedral of Reatina: a certain Bishop of that Diocese abolished that custom; another successor Bishop, in order to please his Chapter, requested from the Holy See that it be confirmed by a special privilege: to which the Sacred Congregation replied: notwithstanding the Decrees.

(1) In the attached General Decree, the following was established regarding the matter in § 2: "To Dignitaries, and to Canons, even if they enjoy the dispensation to wear the Cope and the Rochetta, both in their own and in other churches; nevertheless, the use of these and other canonical insignia is permitted outside their own church only when they proceed as a chapter or attend, and perform sacred functions; but not if they are present

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as individuals, unless a special privilege, not only for the chapter, but also for individuals, is granted.

[*Latin ed. p. 586*]

586 APPENDIX XII. Regarding Transfers. Since, indeed, the Office of the Most Holy Name ought certainly to be given precedence, if, however, the Office of the Most Holy Name is considered a feast of lesser importance than the feast of St. Mary, and especially as a movable feast (since it can fall from the 7th to the 13th of September), it seems preferable to place the feast of St. Benedict of Ponte on its proper day; therefore, which feast should be transferred: St. Benedict's, or that of the Most Holy Name of Mary? And, if the Office is not impeded, what about the Offices already transferred, should they be placed further?

III. In almost all Breviaries, the Prayer of the Holy Innocents concludes with the words: "Through our Lord Jesus Christ." However, in some, the same Collect has this conclusion: "Who lives and reigns, etc." This latter conclusion seems better to many for this reason: for God, to whom the Innocents, Martyrs, proclaim, is Himself the Son of God. Which conclusion, therefore, should be preferred, the first or the second?

2. In the Prayer of St. Bruno (October 6th), the Breviaries differ among themselves. In many, these words are read: "That we who have grievously offended against Your Majesty"; while others have: "That we who constantly offend against Your Majesty." Of these two readings, which should be retained?

3. In the feasts of all the Saints, the following prayer is read in many Breviaries: "God, who has granted that we should venerate all the Saints with one celebration"; while in others, it says: "with one tribute." Of these two readings, which should be preferred?

In the Sequence for the Souls of the Faithful Departed, the following stanza is read in almost all Missals: "King of tremendous majesty, who freely saves those to be saved"; but in some, it reads: "King of tremendous... who, saving..." Which reading should be admitted as the better? The first, or the second?

IV. From the Responses of the Sacred Congregation (on September 12, 1840, in a certain Order of the Most Holy Trinity), it is stated that a semi-double Office falling on a Sunday within a non-privileged Octave should be transferred to the immediately following day that is not impeded, even though a double Office has previously been transferred. Therefore, the following is asked:

1. Does a double Office falling on a Sunday within a non-privileged Octave enjoy the same privilege because of the occurrence of a feast of higher rank?

2. Can and should a double feast, occurring annually, be transferred to

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the next immediately following day that is not impeded, when it coincides with a solemn feast of the Diocese during its Octave, so that the said double feast should be celebrated before the feasts already transferred, since, as they say, the aforementioned Office has its seat?

3. And since the day of the Octave is never transferred, what should be said about a double feast coinciding with the day of the Octave? Can the double feast be given precedence over a double Office that has already been transferred?

V. The Greater Antiphons before Christmas, and those to be sung on the feria immediately preceding the Nativity,

[*Latin ed. p. 587*]

x xii. According to the rubric, standing, slowly, with gravity, and in a solemn manner: which is always faithfully observed. However, a doubt has arisen concerning the *Canticum Beatae Mariae Virginis*, namely, whether it ought to be sung in the Office on weekdays in the same solemn manner as the antiphon, or whether it should be sung with a weekday chant? Those who hold the latter opinion believe that they can prove it with this reasoning: namely, that the Office is for a weekday, and that prayers are recited with the knees bent; but others assert that the *Magnificat* ought to be sung solemnly, just as the antiphon, because the antiphons, *O*, and the *Canticum* are correlative with each other. What is to be decided? What is to be practiced?

387 In the year 1796, the authorities of the city of Genoa presented this to the Holy Apostolic See, stating that from the foundation of its Collegiate Church, it had been the custom that whenever any of the Canons celebrated Mass solemnly on feast days, the sprinkling with blessed water, as prescribed in the Roman Missal, should not be performed by the celebrant, but by one of the chaplains, or those serving in the same church, wearing a rain cape, who would previously hand the aspergillum to the Abbot present, so that he might bless himself with it, and then return it to the celebrant, so that he might perform the blessing according to custom.

However, in recent years, it was deemed advisable to respond to the following:

To I. Whether this custom should be maintained.

To II. Whether the Sacred Congregation should transfer the feast of the Most Holy Name of Mary.

To III. Regarding the readings for the feast of the glorious Innocents, whether they should be taken from the Office of the Saints, or from the Office for the Dead: and whether, by acting in this way, one gravely offends.

To the first question: negatively.

To the second question: negatively.

To the third question: negatively.

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The Sacred Congregation, having considered the matter, and in accordance with other decrees issued in Perugia on November 27, 1632, in Pisa on November 12, 1831, and in Urbino on April 11, 1646, decreed:

That the sprinkling of blessed water must be performed by the celebrant himself, and in no way by a chaplain or acolyte wearing a rain cape. Furthermore, the aspergillum should not be handed to the Abbot present in the choir, so that he might sprinkle himself, but rather, he should be sprinkled by the celebrant, along with the rest of the choir.

IANUENSE. On May 9, 1857.

[*Latin ed. p. 588*]

588 APPENDIX X II. And thus, he wrote and commanded that it be observed. On July 11, 1857, in BRIOCEN. The Vicar General of the Diocese of Briocen, with the consent of the Most Reverend Bishop, proposed the following questions for a suitable solution, namely:

I. When the Feast of the Principal Patron, which is celebrated in the Diocese with a double rite of the second class, is immediately followed by the Octave of a Feast of a certain Apostle, for example, the Feast of Saint James, whether the First Vespers of the Patron should be said with the commemoration of the Apostle, or rather, the Second Vespers of the Apostle with the commemoration of the Patron?

II. If a certain Feria [weekday] of Advent coincides with the Vigil of Saint Thomas the Apostle, should the Mass be said of the Vigil with the commemoration of the Feria, or of the Feria with the commemoration of the Vigil?

The Sacred Congregation judged it fitting to respond.

To I: Negatively to the first part; affirmatively to the second part.

To II: Affirmatively to the first part; negatively to the second part; unless the Vigil of Saint Thomas falls on one of the four Temporalities [certain days], in which case the Mass will be of the Feria with the commemoration of the Vigil.

On July 11, 1857, in MONTPELLIER. The Chaplain of the Nuns of the Blessed Virgin Mary of the Virgins of the Refuge in the City of Montpellier, with the written consent of the Most Reverend Bishop of Montpellier, presented this matter to the Holy Apostolic See, stating that in certain churches of that Diocese, it had been customary to have a Priest assisting at Masses, whether celebrated with or without a Deacon and Subdeacon, wearing a Pluvial [a type of vestment] and Stola [another type of vestment].

Since this custom is in no way in conformity with the rite of the Holy Roman Church, recently restored in the same Diocese; and since the same Bishop, in order to regulate the recitation of the Divine Office and the celebration of the Holy Sacrifice of the Mass, this year 1857, strictly commanded all his priests to observe all the rubrics of the Roman Breviary and Missal,

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and the decrees of the Congregation of Sacred Rites, the aforementioned Orator earnestly requested that the Holy See would deign to declare on the following two questions:

I. Whether the custom of a Priest assisting at any Mass can be retained and used in the churches of the Diocese of Montpellier?

II. And, in the event that the answer to the first question is negative, whether such a custom is permissible for the Archdeacon and the Canons of the Cathedral Church of Montpellier, when, due to the absence of the Bishop, one of them celebrates at more solemn feasts?

The Sacred Congregation judged it fitting to respond: Negatively to both, and let the decrees of Cortona, on the 10th of September, 1701, at number 14, and of Baren, on the 3rd of August, 1839, be consulted.

[*Latin ed. p. 589*]

XII. At X. and in Lucana, on the 7th of December, 1844, to X. X. (!). On the 11th of July, 1857. ULTRAIECTEN. The Most Reverend Lord John Zuiysen, Archbishop of Ultraiecten, and Apostolic Administrator of the Diocese of Buscoducensis in the Netherlands, reported to this Holy Apostolic See that, in those churches, the Most Holy Sacrament of the Eucharist is frequently exposed during the Solemn Mass and during Vespers, and that this is done in the following manner: At the beginning of Mass and of Vespers, the Most Holy Sacrament is exposed under the chant of the verse "Tantum ergo," and at the end, it is reposed in the Tabernacle under the chant of the verse "Genitori, Genitoque"; and on both occasions, that is, at the beginning and at the end of Mass and of Vespers, the Blessing is given to the faithful under the words "May Faith abound and proceed from both," namely, from the Father and the Son. Since these practices are less in conformity with the universal practice of the Church and with the Decrees of the Congregation of Sacred Rites, the Archbishop, in order to clarify the matter, proposed the following three questions to the aforementioned Congregation of Sacred Rites: 1. Is it permissible to retain the practice of blessing the people with the Most Holy Sacrament at the beginning and at the end of the Exposition during Mass and Vespers? 2. Must these blessings necessarily be given in silence by the choir, so that nothing is sung in the meantime? 3. In the supposed case that only the Blessing is given at the end of Mass and Vespers, and that in silence, must this precede the chants of the verses "Tantum ergo" and "Genitori," along with the verse "Besponsorio," and the Prayer concerning the Most Holy Sacrament, as prescribed in the Roman Ritual and the Ceremonial of Bishops after the Procession with the Most Holy Sacrament, since the Commemoration of the same Most Holy Sacrament is already held during Mass and Vespers, or at least a Prayer is recited? The Sacred Congregation decided to respond as follows: To the first question: No. To the second question: Affirmative. To the third question: Affirmative in all respects. On the 11th of July, 1857. MOLIN EN.

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To the Canon, Dean of the Cathedral Church of Molin En, who, having been entrusted with a task by the Most Reverend Bishop of that Diocese concerning Sacred Rites (1) in Cortona, proposed the following question: "Is it permissible for a Canon to be present, wearing the Pluvial, while attending Mass, whether in the cathedral or elsewhere?" To this, the Sacred Congregation responded: No, and Decrees were issued. In the aforementioned case, it was asked: "Is it permissible for a Canon solemnly celebrating Mass in the Collegiate Church to receive the assistance of a Priest wearing the Pluvial, who carries the Pax?" To this, the Sacred Congregation responded: No, in this case. In Lucana. "Does a third assistant wearing the Pluvial have a place, besides the Deacon and Subdeacon, when a Canon or another cleric of dignity is celebrating Mass?" To this, the Sacred Congregation responded: No, and Decrees were issued, especially in Cortona, on the 10th of September, 1701.

[*Latin ed. p. 590*]

590. In the same Diocese, he diligently oversaw matters, always striving to ensure that everything was done honorably and in due order, according to the sentiments of the Apostle Paul. To facilitate and secure this, he proposed several questions to the Sacred Congregation of Rites, adding humble prayers that they might deign to express their judgment on these matters, and on other related issues that he subsequently presented. Therefore, all the questions proposed by him are as follows:

I. In many Missals, on the Feast of the Sorrowful Virgin Mary, it is read: "This Cross bears the torment of life, made man." In some, however, it is read: "Author of life, made man." The question is: which reading should be retained?

II. When Mass is celebrated before the Bishop, should the Deacon cease from kissing the hands of the Celebrant, as prescribed by the rubrics, for example, by offering the paten or the thurible?

III. On Palm Sunday, when the Bishop attends Mass, should he read the Passion? And if so, should he do so while seated during the singing of the Tract, or while standing during the chanting of the Passion?

IV. In the Office of the Three Days of Christ's Death, should all those who otherwise show deep reverence, such as the Bishop, Canons, Celebrant, etc., kneel? Or does this rule of kneeling apply only on Good Friday, after the adoration of the Cross?

V. When someone, for the purpose of fulfilling their duties, moves through the choir, for example, a Ceremonial Master or a Subdeacon proceeding six times in the Pontifical Offices to the Bishop's seat, should all members of the choir of equal or lower rank rise and stand?

VI. When the altar ministers or the Ceremonial Master greet the choir during Mass or the Office, should the choir respond? And if so, should

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they do so by removing their biretta? Should they rise?

VII. Is it permissible for two ministers to be present at Mass when the readings are given, contrary to the decrees of the Sacred Congregation, under the pretext that these ministers are not introduced because of the Celebrant's dignity, but because of the celebration itself, or the frequency of attendance, for example, if the Mass is a parish Mass or of some community?

VIII. Since it is not permitted for the office of minister at Mass when the readings are given to be divided in any way between two people, is it permissible, for the sake of the celebration or the more frequent attendance, as in the previous question, to introduce two clerics from the beginning of the Canon until the Communion, while otherwise maintaining the unity of the minister?

IX. On more solemn days, for a Mass given for a parish or community, as mentioned above, is it permissible to light more than two candles?

[*Latin ed. p. 591*]

xxii. X. Whether a priest, after having communicated himself, may give a discourse to the people before distributing Holy Communion to those present at Mass?

X I . Whether it is permissible for the altar candles to remain covered with some cloth or fabric during the time of Mass and of the Offices, so that they do not become soiled with dust, and indeed, whether the Cross itself may be covered in the same manner, with a smaller Cross placed in its stead as a more precious Cross for the altar?

X I I . According to the custom of the Cathedral Church of Moulins, the Office of None is said before midday, except on vigils, and on the days of Advent, Lent, and the four seasons, on which days it is completed after midday. The question is asked whether, on those days on which a Mass not corresponding to the Office must be celebrated, taking into account the aforementioned custom, such a Mass may be sung after the customary morning Office, that is, after the Hour of Sext, or whether the Office of None before midday should be anticipated, so that the rubric regarding the hour of celebrating Mass may be observed literally?

XIII. Whether, when the Second Vespers of the votive Office of the Immaculate Conception coincide with the Vespers of the First Sunday of Advent, the Office should be continued until the chapter concerning the votive Office, and from that chapter concerning the Sunday with the commemoration of the Immaculate Conception, or whether, when such a votive Office is not celebrated during Advent, the Vespers should be complete for Saturday, and without the Commemoration?

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X I V. The Church, formerly a collegiate church under the name of the

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Blessed Virgin Mary, was built in the city of Moulins; however, it appears that it was not consecrated, because the buildings were never completed. From all the monuments, it is believed that the Feast of the Annunciation was held as the principal and titular feast. After the troubles in Gaul, the aforementioned church became a parish church, and with the celebration of the Feast of the Annunciation falling into oblivion, the Feast of the Assumption began to be solemnly observed as the patronal feast. Finally, when the See of Moulins was established by Pope Pius VII, this church was raised to the status of a cathedral under the title of the Blessed Virgin Mary. The first Bishop of Moulins, having taken possession of his See on the Feast of the Nativity of the Blessed Virgin Mary in the year 1823, decreed that this Feast of the Nativity should henceforth be celebrated as the titular feast, without, however, mentioning any special power granted to him by the Roman Pontiff regarding this matter. Now, the following is asked:

1. Whether the decree of the first Bishop of Moulins, assigning the Nativity of the Blessed Virgin Mary as the titular feast, is valid.

2. Whether the Feast of the Annunciation, as in former times, should be held as the titular feast of this church.

3. Whether the quality of the titular feast is suitable for the Feast of the Assumption.

4. Since it would not be permissible for the modern Bishop to restore the title of the Annunciation now, whether it would be permissible for him to allow it to be restored after the building has been newly accepted and consecrated in the consecration of the church?

[*Latin ed. p. 592*]

592 APPENDIX V. It is reported that a response was given by the Sacred Congregation to Bishop Julius of Limoges, concerning the observance of the Feast of Saint Martin, the patron of a certain place, on the general feast day of the Dedication of Churches, which is celebrated in France on the Sunday after the Octave of All Saints, that the Feast of Saint Martin should be observed. The following questions are raised:

1. Whether this decision also applies to a consecrated church, for which the aforementioned Anniversary of Dedication should be observed not as a general feast, but as a proper feast?

2. Whether also the Mass, which is to be celebrated on the Sunday immediately following the Feast of the Patron, should take precedence over the general Feast of Dedication; so that, if the Feast of Dedication falls on the Sunday immediately following the Feast of Saint Martin the Patron, the Mass should be sung of Saint Martin with the commemoration of the Dedication?

596. Whether in a church that has only been blessed, an altar can be

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consecrated, without the church itself first being consecrated?

597. Whether, in the administration of Baptism, questions can be asked in the vernacular, or at least repeated in the vernacular, after they have been asked in Latin?

598. Many nuns in France use books, whether older, such as those used by the Carmelites and Dominicans, or more recently compiled, which contain various blessings and prayers, for example, for the vesting and the taking of vows. However, these books do not have the approval of the Sacred Congregation. There are also things in them that are worthy of admiration; for example, among the Daughters of the Blessed Virgin Mary of the Good Shepherd, who safeguard their books, asserting that they are in use in the monastery of their Order in the Eternal City, in a certain perpetual prayer, the divine plans concerning the election and name of this Institute are declared. Thus, Psalm 10 is sung: "Hear me, O Lord, in the day of my profession" (so it is said), "protect me, etc." In the Responsorial, the words "Deliver me, O Lord" are varied, for example, "I have been troubled." The following questions are raised:

1. Whether it is permissible for any priest, in the performance of ecclesiastical functions, to use books of this kind that have not been approved by the Sacred Congregation?

2. To the extent that the answer to the first question is affirmative, whether this decision also applies, even if the ecclesiastical prayers in these books have been altered as mentioned above?

3. To the extent that the answer to the first question is negative, whether it would be permissible for a priest, when blessing a nun during the vesting of her habit or the taking of her vows, to recite certain prayers that are not from the Pontifical?

599. Whether a priest can permit the nuns, during a certain annual celebration, to renew their profession of vows aloud before receiving the Holy Communion during Mass. Also, whether other things can be performed that are not in accordance with the rubrics and the decrees of the Sacred Congregation, but are in accordance with customary books, which are said to be ancient, for example, the use of incense during the Mass, and other similar things?

[*Latin ed. p. 593*]

x xii. X X. Women have been accustomed, after childbirth, to stand before a priest to receive a blessing, even if the child had died before baptism. However, in that case, the words of the prayers of the *Ritual* of Rome, which are currently in force in this diocese, cannot be verified, and the blessing should not be omitted without some consideration for the people, and without increasing the sorrow of such women. The question arises: what should be done, and whether it is permissible, after the woman has

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entered the church, to substitute some other prayer from those contained in the Missal, so that the blessing, as in the Ritual, may be conferred?

X X I. Whether the prohibition made by the Sacred Congregation of Rites regarding absolution for the dead after the Mass of the day, should also extend to the case in which a priest, having laid aside his sacred vestments, performs this function, as is entirely independent and alien from the Mass? And, to the extent that this is affirmative, the Bishop of Molinen requests grace; for in this diocese, having recently adopted the Roman liturgy, the use of these absolutions had long existed, and Masses for the dead were also celebrated in the *Duplicia*. However, if a return to the strictness of the law were necessary, the people might perhaps bear it badly, and the parish priests might often be deprived of customary offerings, which would cause them great distress and lead them to criticize the newly introduced liturgy. *Jeta, vol. III, p. 593.*

XXII. Whether the custom of blessing the people returning from Mass outside the city gates, region, or the house of the sick, can be maintained when the Blessed Sacrament is being carried to the sick? And, to the extent that this is not permissible without special grace, the Bishop of Molinen requests that this grace be granted, as was done on the Mass of St. Populonia, April 7, 1832.

XXIII. Whether, due to the roughness of the roads, and the inconveniences of winds, snow, and glaciers, it may be permitted by the Most Reverend Bishop of Molinen, for the parish priests to carry the Sacred Viaticum with their heads covered with a cap? And, to the extent that this is not permissible without special grace, it is requested on behalf of the aforementioned Bishop that this grace be granted, as was done in Bisinianen, on May 23, 1846.

ADDITIONAL DOUBTS.

XXIV. Whether reverence, through genuflections, is due to the celebrant in Pontifical functions, when he is a foreign Bishop, or a Prelate who has the use of Pontifical vestments, or an Abbot, either in his own monastery, or outside his own monastery by special privilege?

XXV. Whether, when the Bishop does not celebrate Vespers on a particular day, but completes the form of the second chapter of the second book of the Ceremonial, the office of a Canon, a Presbyter Assistant, not in the *Pluvial*, but in canonical habit, pertains to the first dignity, or to the first Canon, a Presbyter, after the dignities?

[*Latin ed. p. 594*]

594. APPENDIX XXVI. Whether the cope should be worn by those assisting at the Holy Mass, either by those distributing Communion to the canons during the general Communion, or by the deacon assisting the

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bishop in receiving the chalice in procession on Holy Thursday? XXVII. Whether the canons, priests present at an ordination, who are to impose hands upon those being ordained to the priesthood, should wear the cope; and if so, whether they should put it on, having laid aside their cassock or mozzetta, or whether they should wear a superpellicium [liturgical vestment]? XXVIII. Whether it is permissible to display in churches an image of the Sacred Heart, adorned with a crown of thorns and a cross placed above it, to signify the Heart of Our Lord Jesus Christ, without thereby representing Our Lord in any other manner; or also, in the same manner, the images of two hearts placed side by side, to express the Hearts of Our Lord Jesus Christ and of the Blessed Virgin Mary? XXIX. Whether, in the Mass, or even in the Vespers, when the hebdomadarius [lector] is not seated in the choir, the salutations, the thurification, etc., should begin from the side where the most distinguished person present is seated, or from the side to which the week belongs, and to which the choir table is affixed? XXX. Whether nuns, or pious women living in common under a rule, may, with the permission of the Ordinary, use the corporalia [linen cloths], pall, and purificator [cloth for wiping the chalice]? XXXI. Whether, in the offices of the Holy Week and in the offices for the dead, the following should be omitted: 1. The salutation of the choir by anyone arriving after the office has begun, and the appropriate response? 2. The salutation of the choir by the celebrant upon his entrance and departure? 3. The salutation of the choir by the celebrant as he goes from his seat to the altar? 4. The salutation of the choir by anyone singing a reading, or by the subdeacon singing the Epistle? XXXII. Since in France, it is commonly customary for a more solemn sermon to be given at Vespers, the question is asked whether the preacher, before the bishop and canons, giving a solemn sermon at Vespers, may wear the canonical habit, as provided in Book I, Chapter 22, number 2, of the *Caeremoniales Episcoporum* [Ceremonies of Bishops]? The Sacred Congregation, having heard the opinion of the Master of Ceremonies, decided as follows: To I: The reading should be retained: "This Cross bears the suffering; He who is the Author of life made Himself man." To II: The *Caeremoniales Episcoporum* should be observed. To III: No, and the *Caeremoniales Episcoporum* should be observed. To IV: No, to the first part; yes, to the second. To V: No, and the *Caeremoniales Episcoporum* should be observed. To VI: Yes, with the head uncovered, according to custom. To VII: The decrees regarding strictly private Masses should indeed be observed, but regarding parish Masses,

[*Latin ed. p. 595*]

APPENDIX XII. 595 On more solemn days, and concerning the use of up to fifteen (A.V.). It is not established that Masses celebrated in solemn places, with the singing of the proper parts of the Sacred Office, and with

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customary celebrations and solemnities, up to A.V., can be permitted. A.V. Affirmative. It is permissible to have two Ministers at Mass up to A.V., provided that they serve in their proper order. The Holy Congregation, in a certain document of the same day, 7 September 1816, concerning doubts XI and XII. Ad XVIII. It is not permitted, unless they have been authorized by the Holy See, or with the permission of the Ordinaries. Ad XIX. Affirmative concerning the first part, regarding the solemn Mass, § VIII, no. 8. Ad X. Provided that the approval of the Ordinary is obtained, or that there is a custom: concerning the second part, affirmative with the consent of the Ordinary. Ad XX. The Roman Ritual must be strictly observed. Ad XXI. The custom must be observed. Ad XXII. Application must be made to the Most Holy See for a dispensation, unless it concerns Masses of convenience during Advent, Lent, the four seasons, and Vigils, or solemn votive Masses for a serious reason, or for the public good of the Church, concerning which it is necessary to follow Rubric XV, no. 2 and 5, or unless it concerns Masses for the dead, for which the same Rubric no. 3 must be observed. Ad XIII. Affirmative concerning the first part: regarding the parish priests in the circumstances expressed in Doubt, they may carry the Viaticum, accompanied by at least one person, with a lighted lantern. Contrary to what is stated in the aforementioned document, the following doubts were proposed: XI. "Is it permitted for a Minister to open the Missal and find the Mass in private Masses?" XII. "Is it permitted for a Minister, if he is a Priest or Deacon or Subdeacon, to prepare the Chalice, and to cleanse it at the end after the ablutions, as in a solemn Mass?" To which the Holy Congregation responded: to XI. Negative, and the Rubrics must be observed. To XII. As to the next. That is, to XI.

[*Latin ed. p. 596*]

596 APPENDIX XII. DOUBTS ANSWERED. ALIA. Regarding a bishop from outside the diocese, and prelates possessing the use of pontificals: affirmative regarding regular abbots only within the churches of their jurisdiction. Regarding XX (twenty), negative concerning the first part; affirmative concerning the second. Regarding XXVI (twenty-six), affirmative, according to the *Caeremoniale Episcoporum*, the decrees are to be given (1). Regarding XXVII (twenty-seven), concerning the first part, provision is made by the Roman Pontificale, *De Ordinatione Presbyterorum*; concerning the second part, negative, according to the practice of the Archbasilica of the Lateran. Regarding XXVIII (twenty-eight), to the bishop, observing the form of the decrees of the Council of Trent and of Pope Urban VIII. Regarding XXIX (twenty-nine), affirmative concerning the first part; negative concerning the second. Regarding XXX (thirty), negative. Regarding XXXI (thirty-one), negative in all respects, except for the Office of the Feast Day, from the adoration of the Cross until the Nones of the Sabbath of Saint [John the Baptist]. Regarding XXXII (thirty-two), in the case under con-

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sideration, affirmative. On September 12, 1857. Concerning the contents of Doubt XXI (twenty-one), a report was made to His Holiness Pope Pius IX by Cardinal Eïlius, Prefect, and His Holiness approved and ratified the rescript of the Sacred Congregation. On the 26th of the same month and year. In Turin, the Most Reverend Aloysius Fransoni, Archbishop of Turin, humbly requested that the following doubts be answered: I. In the Offices of the Nativity and Purification of the Blessed Virgin, are the chapters for the Vespers placed in their proper order, or does the rubric of the lesser hours of those Offices read: "All as in the Office of the Blessed Virgin Mary on the Sabbath"? The question is, whether for the Third Hour, a proper chapter of the Vespers should be recited, or another of the Blessed Virgin Mary on the Sabbath? II. Are the hymns on the Feast of the Most Sacred Heart of Jesus to be concluded with the stanza "Jesus, where shall glory be, who born..."? III. Since, by a special privilege of the Holy See, the feast of the Most Holy Body of Christ enjoys an octave in the diocese of Turin, so that within that octave, only the Offices of the first and second class are recited, as well as those transferred, and the days of the octave also exclude the double Office of the second class: is it necessary to make mention of the aforementioned octave either in the Second Vespers of that day of the octave, or in the First Vespers of the Most Sacred Heart of Jesus? IV. Regarding the Anniversaries of the Election and Coronation of the Supreme Pontiff, as well as the Anniversary of the Consecration, (1) The matters discussed in the question presented on page 539 and following may be considered.

[*Latin ed. p. 597*]

The consecration of a bishop must be commemorated in the Mass; therefore, the question arises whether such a commemoration should always be performed under a single conclusion, or whether it should only be performed in the presence of a double first or second class feast, and when other commemorations should be performed, or rather, whether this commemoration should be added at the last place? The same question arises regarding the commemoration of all the Saints, Apostles, and Martyrs, to be added to the Mass of the Saints, Apostles Peter and Paul, and of all the Martyrs, prescribed on the Feast of Saint Stephen.

V. In some Breviaries, hymns are read on the Feast of Saint Gabriel the Archangel, with all stanzas referring to the Archangels Saint Michael and Saint Raphael; in others, only those stanzas are included that refer to Saint Gabriel, as is the case in the hymns of the same Saint Raphael. From these two different editions of the Breviary, which should be observed and followed?

V I. In some Breviaries, on the Feast of Saint Raymond, the Non-Nate, readings from the Book of Psalms, "Blessed is the man," are assigned for the first Nocturn; in others, readings from Scripture are indicated for the first Nocturn; what should be observed in practice?

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The Holy Congregation decided to respond as follows:

To I. Affirmative to the first part; negative to the second.

To I I. Affirmative in the Office to which the Mass "Egredimini" corresponds; negative in another Office to which the Mass "Miserebitur" corresponds, in which the conclusions of the hymns should not be varied in any way.

To I I I. The complete Vespers should be recited on the days of the Octave without the commemoration of the Most Sacred Heart of Jesus, if this feast is celebrated under a double major rite.

To I V. Postponed; and let someone from the Masters of the Apostolic Ceremonies write.

To V. The hymn "Christe Sanctorum" should be recited on the Feast of Saint Gabriel, as it is read on the Feast of the Dedication of Saint Michael the Archangel.

To V I. The readings for the first Nocturn should be taken from Scripture. And so it was written and ordered to be observed.

September 12, 1857.

ALBA. The Cathedral Church of Alba enjoys the honor that its first dignity is adorned with the title of Archdeacon, and is also endowed with the name and privileges of an Abbot, with which the Abbot of the suppressed Monastery of Saint Gaudens in the region of Saint-Étienne, in the Piedmontese territory, formerly enjoyed.

Indeed, in the year 1759, on July 17th, the Supreme Pontiff Clement XIII suppressed this monastery by the Bull "Sollicitudinem Apostolici Ministerii," and added the revenues and assets of the monastery to the Chapter of Alba; and the abbatial rights were granted to the Archdeacon for the time being of the Cathedral. Relying on these rights, the Archdeacon...

[*Latin ed. p. 598*]

398 APPENDIX X I I . The Archdeacon and Abbot Simon Morra, from the date of his possession, which occurred in the year 1832, has, in all Sacred Functions, even in the solemn celebration of the Mass, made use of a ring without a gem, according to the privilege pertaining to the Abbots of Saint Benedict, and the prerogative formerly belonging to the Abbot of Saint Gaudentius; and no one has said anything to the contrary regarding such a ring, or at least has questioned it, until the year 1854, in which year the Reverend Sabinus Rinaldi, Vicar Capitular of the Diocese of Alba, with that Episcopal See vacant, considering the wearing of a ring without a gem to be entirely unsuitable, especially in Sacred Functions, simply requested of this Holy See, as if he were the Abbot of Saint Gaudentius, that it would deign to declare first: whether it was permissible for the Archdeacon Abbot to wear such a ring, especially in the celebration of Mass; and secondly, in the event of a negative answer, whether the wearing of such

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a ring would be prohibited. Generally, this inquiry, which, since it was a simple proposal, did not seem to involve any question of fact, the Secretary of the Sacred Rites Congregation, having considered that it was necessary to respond according to general rules, obtained a Rescript from the Most Holy [Pope], which was communicated to the aforementioned Vicar Capitular by means of appropriate Letters on the 15th of May of the same year 1854, and in which it was declared, according to previously issued Decrees, that the wearing of such a ring was entirely forbidden, and repeatedly disapproved of, and prohibited, and that the aforementioned Vicar was ordered to admonish the Archdeacon Abbot Morra to remove the ring. The Archdeacon Abbot Morra immediately complied with these orders; however, having considered that this Rescript caused harm to his privileges (to which he had sworn to adhere in the assumption of the Archdeaconate), he presented humble petitions with numerous documents to the Most Holy Lord, our Pope Pius IX, in which he humbly requested the revocation of the Rescript of May 11, 1854, and the restoration of his right according to his privilege. On July 24th of the following year, 1861, after considering the matters presented, he granted an audience and, notwithstanding the Rescript of May 11, 1854, benignly agreed that, by right, the Archdeacon Abbot of Alba should be recognized, and that a decision should be made in an Ordinary meeting of the Sacred Rites Congregation, after hearing first the aforementioned Vicar Capitular of Alba. The aforementioned Vicar Capitular, considering it necessary to expose the matter to this Sacred Congregation for the proper performance of his duty, nevertheless, according to accepted custom, wished that one of the Masters of the Apostolic Ceremonies would express his opinion in writing on such a matter. With these matters arranged, the Cardinal Prefect of the Sacred Rites Congregation, in the Ordinary Meetings at the Vatican, today...

[*Latin ed. p. 599*]

XXII. On that day, the following question was proposed: Whether it is permissible for the Archdeacon, Abbot of the Cathedral of Alba, to wear a ring with a gem during the solemn Mass and other sacred functions? After careful consideration, the Fathers entrusted with safeguarding the sacred rites responded as follows: Referring to the declaration of the Rescript of May 11, 1854, the answer is affirmative. September 12, 1857. Regarding the above, after being informed of the matter, His Holiness ratified and confirmed the decision. September 17 of the same month and year. FROM CALGARI. Towards the end of the year 1856, the noble Salvator Rossi, to whose mortal remains the Chapter of the Metropolitan Church earnestly requested to be joined, entered the city of Cagliari in Sardinia, so that the funeral rites might be performed in the parish church of Saint Eulalia. However, the College of Parish Priests constituting this parish, foreseeing that their own rights would be violated if the Metropolitan Chapter were to

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join the deceased to their church, diligently endeavored to dissuade the Chapter from their intention; but in vain: for the Chapter, having joined the deceased, entered the church of Saint Eulalia through a smaller gate, since the main gate remained closed by the efforts of the Parish Priests. They then celebrated the solemn Mass, the funeral rites, and other services over the deceased, without the Parish College being able to perform the customary services that each church of the State, although exempt, is accustomed to render to the Metropolitan Chapter. Meanwhile, fearing that their rights might be infringed in the future by the Metropolitan Chapter, the Parish Priests presented the entire matter to the Congregation of Sacred Rites, and humbly requested that it would deign to declare on the following two questions. The Sacred Congregation, therefore, decided to hear the Most Reverend Archbishop of Cagliari, who had been residing in Rome for some time, and after hearing the arguments presented by the College of Parish Priests of Saint Eulalia, and considering the rights of both parties, formulated the following two questions, so that whatever rights belonged to each party would be included therein: I. Whether the Chapter of the Metropolitan Church, having, according to numerous decrees of this Sacred Congregation, precedence over the Parish Priest in the matter of the joining of the deceased to the church, can also, in the case of a deceased whose body is not subject to its jurisdiction, erect its own cross, excluding that of the Parish Priest, and, after raising it, enter the Parish Church of the deceased, and in that church celebrate a solemn Mass, etc.

(1) It is possible to recall what we noted regarding the Report of the Rescript, page 318.

[*Latin ed. p. 600*]

600. Whether, concerning a corpse, certain offices should be performed, even without the invitation of the Parish Priest?

11. Are the Parish Priests of the Church of Saint Eulalia obligated to maintain the custom of receiving, at the doors of the Church, Canons and Beneficiaries of the Metropolitan Church, whenever they enter the aforementioned Church of Saint Eulalia, whether on the occasion of funerals or for any other reason, and of offering them blessed water by the hand of the President, in the same manner and with the same ceremony that has been consistently and perpetually observed, and is still observed, in the other churches of this State, even those that are exempt?

12. The Secretary of the [Diocese] reported that, upon his instruction, he communicated to Your Eminence his desire that the abuse of using candles made of tallow be eliminated. Therefore, it is fitting that Your Eminence, with due prudence, should bring this matter to the attention of His Holiness, and in the meantime, I earnestly pray for Your Eminence's lasting happiness.

Rome, 10th of December, 1857.

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To the Most Reverend Brother, the Bishop of Carolina.

BALTIMORE.

In reply to your inquiry: Regarding the first and second points, the answer is affirmative; regarding the others, the answer is negative.

To be observed.

For the Most Reverend Father Francis Patrizio Kenrick, Archbishop of Baltimore.

To the Congregation of Sacred Rites, the following is proposed for appropriate consideration:

CAROLINA, 12th of September, 1857.

Most Reverend Father,

Your Eminence, representing this Diocese of Carolina to the Most Holy Apostolic See, has reported that the practice of using candles made of tallow has become prevalent in the churches of this Diocese, and that this irregular practice has led to both the impoverishment of those churches and a high price for wax in these regions of America. Therefore, Your Eminence, with fervent prayers, has requested that, considering the reasons presented, His Holiness might, with Apostolic benevolence, permit this custom to continue.

His Holiness, having heard from me, the undersigned, the following questions are posed:

I. By Decree of His Holiness, Pope Pius IX, the Feast of Saint Titus, Bishop and Confessor, is to be celebrated in the entire Church under a minor double rite on the first free day after the fourth of January. The question is: According to the prescription of the Sacred Congregation, should or can the first free day be assigned to this Feast, according to the calendar of each Diocese, so that that day is henceforth considered a proper and fixed day for this Feast, or must a day be assigned that is not proper and fixed, and must it be transferred each year to the first day free from any impediment after a double or semi-double Feast, with any other office of even a higher rite also being similarly transferred?

[*Latin ed. p. 601*]

XII. I. If it should happen that in some Religious Congregation, on the same day, two votive Offices are to be recited, which have been granted weekly, for example, the Office of the Most Holy Sacrament granted to the Diocese, and another votive Office specifically granted to the aforementioned Congregation; which is to be performed? Whether the Office of the Most Holy Sacrament or the special Office?

I. If the Office of the Most Holy Sacrament, which is recited once each week by virtue of an Apostolic Indult, has the complete Second Vespers, should the hymn *Completorii*, namely, *Iesu tibi sit gloria*, be omitted, or rather, should it be omitted only within the year, so that Offices of this

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kind are considered to end with the Second Vespers?

VI. When it was asked whether the use of a small cochlear (funnel) for pouring water into the chalice was permitted, the Sacred Congregation of Rites responded that Rubric No. 1850, dated September 7, 1850, must be observed; it is asked whether these words are to be understood in such a way that the use of a cochlear in the aforementioned case is entirely prohibited? The reason for the doubt is that, while the Rubric prescribes that a little water be poured into the chalice, it does not specify the manner in which it is to be poured. The Sacred Congregation considered it appropriate to respond:

I. To the first question: The Feast of Saint Tity should be assigned a fixed day once and for all in the Diocesan Calendar, not later than the fourth of January, and, if possible, the sixth of February.

601. To the second question: In the case of a special Office, it is to be performed.

To the third question: In the case where the Office is to be concluded, the hymn *Completorii* is to be concluded with the verse *Iesu tibi sit gloria*.

To the fourth question: No, or rather, the use of a small cochlear is not prohibited.

February 6, 1858. NORTHANTONIEN.

When the Most Reverend William Vareing, Bishop of Northampton, proposed the following three questions to the Holy Apostolic See for appropriate declaration, namely:

I. Whether, in the Diocese of Northampton, in addition to the Commemorations of Saint George, Martyr, Protector of England, and Saint Thomas, Bishop and Martyr of Canterbury, Patron of the Diocese, a Commemoration of the titular Church to which they minister should also be made by all Rectors, Missionaries, and other Priests, even if the same Church has not been consecrated, but only blessed?

II. And, assuming the affirmative, whether Canons, even if they are absent and at the same time minister to another Church, are obliged to celebrate the Feast and make a commemoration of Saint Felix, the titular Church of which the Bishop of Northampton (according to the Decree of the Sacred Congregation of Propaganda Fide of April 21, 1852) has duly established as a substitute for the Cathedral Church, so that everything is performed there in the meantime as if in the Cathedral Church, which will then be designated and established in due time, and forever?

[*Latin ed. p. 602*]

602 APPENDIX XII. III. Whether, in monasteries and churches which are established in the diocese of Northampton, as if they were parishes, it is permissible to light more than two candles on the altar, at least on the more solemn feasts, when, due to a lack of singers, the principal Mass, which is

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also a conventual or parochial Mass, cannot be sung. The Sacred Congregation replies, and it is approved: 1. Affirmative, provided the church is consecrated, and only by those who are members of the same church. 2. Affirmative. 3. Affirmative. February 6, 1858. MONTPELLIER. When the Most Reverend Charles Thomas Thibault, Bishop of Montpellier, proposed the following questions to the Congregation of Sacred Rites for a suitable solution, namely: 1. Whether a deacon and subdeacon, vested in sacred vestments, can be used in a Mass for the Dead, with the body present, when it is not sung? And, as to the affirmative for the first: 2. Whether a deacon and subdeacon, vested in sacred vestments, can be used in the very funeral rites of the deceased, outside of the Mass? The Sacred Congregation judged it should reply: Negatively to both. February 6, 1858. LIMBURG. From what has been presented to the Apostolic See by the Most Reverend Peter Joseph Blum, Bishop of Limburg, it appears that in that diocese as well, bells cast from iron are commonly used in churches, namely, from pure iron, which, through melting and other processes, acquires greater hardness and rigidity. Since the aforementioned Bishop, the speaker, does not certainly know whether this type of iron is a material sufficiently suitable for blessing, or whether anything prevents bells cast from iron from being blessed according to the rite prescribed in the Roman Pontifical, he implored this Holy See with earnest prayers for a suitable declaration. Furthermore, the Congregation judged that a response should be given: Nothing prevents it. February 6, 1858. MISSIONES POLI ARTICI. 1. Whether ecclesiastical persons who reside in regions beyond the polar circle, where, during the summer, the sun does not set for several weeks, nor, conversely, rises during several weeks in the winter, can follow Roman time in performing divine services. 2. Whether, in those same regions, if wax or another suitable material for lighting candles is lacking, oil from the blubber of whales, commonly called spermaceti, can be used while the Holy Sacrifice of the Mass is celebrated. The Congregation, after careful consideration of the first...

[*Latin ed. p. 603*]

APPENDIX XII. Regarding a doubtful matter, the Reverend Father Angel Secchi, S.J., deemed it necessary to write. To I. Concerning the request of the Astronomer, Father Secchi. To II. Let the Decree of the Sacred Missions in Oceania, of September 7, 1850, be communicated (1). February 6, 1858. CONCERNING SEVERAL DIOCESES. Several Most Reverend Ordinaries, namely, those of Compostellanus and Salamantinus in Hispania, Aleniensis in Albania, and Meldensis in Gallia, having observed the rigorous execution of the Decree issued by this Sacred Congregation of Rites in Elusitan, on September 16, of the year 1815, concerning the use of only one chalice by priests celebrating multiple Masses due to the necessity of the faithful, and, on the same day, celebrating sixty-three Masses, have encountered very serious difficulties, since the priest is compelled to offer

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another Mass not in the same church where he celebrated the first, but in another, situated far away; moreover, they have observed that the custom of using two chalices in such cases is not only universal in Hispania and Gallia, but also so ancient that it easily surpasses all human memory; therefore, they have appealed to this Holy Apostolic See for a modification of the aforementioned Decree, and for a certain rule which they might safely follow. In order that due consideration might be given to the requests presented by the aforementioned Ordinaries on this matter, the following two questions were formulated: (i) The following is the text of the alleged Decree: SACRED MISSIONS IN OCEANIA. "Although the Congregation for the Propagation of the Faith has consistently insisted that, even in the most remote missions, candles made from the labor of bees should be used for the Holy Sacrifice of the Mass, and that, at times, with Apostolic permission, missionaries may use oil in the celebration of Mass in place of wax, and, if oil is lacking, celebrate without lights; nevertheless, it could not overlook the fervent prayers of the Evangelical workers in distant and still-developing sacred missions in Oceania, on behalf of whom it was stated that it was almost impossible for them to procure either wax or oil, so that they might be able to carry out the permission already granted for the use of oil in place of wax. And since it greatly displeases these workers to celebrate the Holy Sacrifice without lights, and it is difficult for them to obtain candles of the quality that are used in many regions, which are made from oil or tallow, after a necessary purification, and are commonly called spermaceti; they earnestly request that the use of such candles be permitted in the sacred action, all the more because, according to their testimony, these candles, because of their brightness, purity, and light, are called 'Bougies à l'étoile' in that language. And since it pleased the same Congregation for the Propagation of the Faith, before making any decision in this matter, to inquire the opinion and judgment of this Sacred Congregation of Rites, the Eminent and Most Reverend Fathers entrusted with the preservation of the sacred rites, after mature examination of the circumstances presented in the exposition of the facts, deemed it fitting to reply: affirmatively, provided that the requests are made in truth." September 7, 1850.

[*Latin ed. p. 604*]

604 APPENDIX X I I . I. Whether the custom, said to be practiced in the Dioceses of Compostellana and Salamantina, as well as in the Diocese of Meldensi, and in other French Dioceses, of using two chalices, should be maintained, or permitted elsewhere, namely, when a priest celebrates two Masses on the same day in churches far apart, for particular reasons? I I. And, regarding whether such a custom should be maintained or permitted, considering the particular circumstances, what should be done concerning the purification of the first chalice, so that due reverence to the Sacrament is

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observed, and the priest remains fasting for the second Mass, given the particular circumstances, as explained both in the first and, especially, in the second volume? Indeed, these questions were presented by the Eminent and Reverend Cardinal Gabriel Delia Genga Sermattei to the Ordinary Sessions of the Congregation for Sacred Rites in the year 1857, on September 12th, at Vatican, and the Eminent and Reverend Fathers entrusted with safeguarding the sacred rites, after mature deliberation, and with the learned and diligent investigation that the Reverend Doctor John Corazza, one of the Masters of the Sacred Ceremonies, had previously prepared at their request, considered it necessary to respond. To I. The use of two chalices can be permitted in this case. To I I. To be considered: A directive is to be prepared. Such a directive, which, at the request of the Eminent and Reverend Cardinal Delia Genga Sermattei, together with the Reverend Father Andrea Maria Frattini, Promoter of the Holy Faith, was prepared for the Congregation, is as follows: When a priest is obliged to celebrate two Masses on the same day in places far apart, he should, when receiving the Divine Blood in the first Mass, absorb it most carefully. Then, he should place the chalice on the corporal and cover it with the pall, and, with joined hands in the middle of the altar, he should say: "What we have taken in our mouths." Then, approaching the vessel of water, he should wash his fingers, saying: "Your Body, and..." Having done these things, the chalice, still remaining on the corporal, should be covered as is customary, that is, first with the purificator, then with the paten and pall, and finally with the veil. After this, he should proceed with the Mass, and after the last Gospel, he should again stand in the middle of the altar, and examine the chalice to see if it has retained any of the Divine Blood, which often happens. For although the sacred species are carefully absorbed at first, yet, when they are taken, as the particles that are around are carried upwards, they do not all return to the bottom of the chalice. If, therefore, a drop of the Divine Blood remains, it should be again and carefully absorbed, and that from the same side from which it was first taken. This must not be omitted in any way, because the Sacrifice is morally lasting, and...

[*Latin ed. p. 605*]

IX. XII. While the chalice still contains the species of wine, it must be completed according to the divine precept. Afterward, the priest should pour into the chalice at least as much water as he had previously poured in wine, and he should pour this water, from the same side from which he drank the Sacred Blood, into a prepared vessel. Then, he should immediately cleanse the chalice with a purifying linen cloth, and finally, cover it as is customary, and depart from the altar. After the sacred vestments have been laid aside and the prayer of thanksgiving has been completed, the water poured from the chalice, depending on the circumstances, may be reserved for the following day (if, indeed, the priest is to return to celebrate

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Mass), and poured into the chalice to maintain its purification; or it may be burned with cotton or hemp; or it may be left to dry in the sacristry, if there is one; or it may be poured into a basin. However, if the chalice, which the priest has already used, is to be used again for another Mass, he may take it with him; otherwise, he may use a different chalice for the second Mass. Concerning all of these matters, a faithful report was subsequently made to the Most Holy Pope Pius X through his secretary, and His Holiness deigned to approve the resolution of the Sacred Congregation, along with the attached instruction. March 11, 1858. BRIOCEN. Vicar General of the Most Reverend Bishop of Briocen. The following doubts were humbly submitted to the Sacred Congregation.

605 I. Is it required, by order, that a procession be held within the church on the feast of Saint Mark, and on the weekdays of Rogation, if inclement weather prevents it from taking place outside the church?

II. Since, according to the decree of March 12, 1836, in Trent, a Mass of Rogation is to be celebrated when a procession takes place, the following questions arise: 1. If April 25th falls on a Sunday in churches where there is only one priest, may a Mass with the Rogation responses suffice to fulfill the obligation of the parish Mass? And if so, 2. Must the Gloria and the Creed be omitted in such a Mass? 3. Must this Mass be sung in the tone of the feria?

III. In churches where there are several priests, should this Mass of Rogation be celebrated entirely with singing? Or is it sufficient to celebrate this Mass without singing, provided that the procession is held?

The Sacred Congregation judged it advisable to respond.

To I: If the church is large enough, it is more in accordance with the rubrics if the procession takes place within its confines in such a case.

To II: In accordance with other decrees, the answer is affirmative in all cases.

To III: It is more in accordance with the rubrics to sing, but it is not strictly required, unless it is a matter of churches where the Conventual Mass is sung daily.

August 14, 1858. BRIOCEN.

Since, by the gracious concession of the Holy See of September 4, 1847, in

[*Latin ed. p. 606*]

APPENDIX XII. In the Diocese of Saint-Brieuc, the Solemnity of the Most Holy Body of Christ is celebrated with its Octave, which is so privileged that within that Octave itself, only Offices of the first and second class are permitted, according to the will of the Bishop of Saint-Brieuc. The Most Reverend Chapter of Saint-Brieuc, humbly supplicates for a declaration regarding the following doubts.

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I. Does the Octave of the Most Holy Trinity cease with the approach of the Feast of the Body of Christ, in those churches which are dedicated with the title of the Most Holy Trinity, and is no further mention made of it, as is stated in the general rubrics, when the Feast of Pentecost occurs?

II. And, if the answer to the first question is negative, is the Office of Sunday within the Octave of the Body of Christ to be celebrated on the day of the Octave of the Most Holy Trinity, with the commemoration of the Octave of the Body of Christ and the Octave of the Most Holy Trinity, or without the commemoration of the Most Holy Trinity?

III. Or, rather, is the Office of the day of the Octave of the Most Holy Trinity to be celebrated, with the commemorations of Sunday and the Octave of the Most Holy Body of Christ?

The Holy Congregation decided that a response should be given.

To I: Negatively.

To II: Negatively, in all cases.

To III: Affirmatively.

Florence, August 14, 1858.

In the Diocese of Florence, certain difficulties having arisen concerning the manner in which certain Offices are to be celebrated in the Diocesan Calendar, the Most Reverend Joachim Limberti, Archbishop of Florence, deemed it fitting to propose the following doubts to the Congregation of Sacred Rites for a suitable declaration, namely:

I. The Feast of Saint Titus, Bishop and Confessor, is, by decree of the Holy See, to be celebrated with a lesser double rite; however, it is fixed in the Diocesan Calendar of Florence on March 31st. Whereas, according to the words of the sixth lesson, it is to be celebrated on the first free day after January 14th. But from the year 1858, the Feast of Saint Titus has been permanently assigned to January 28th, as the first free day after January 14th. If, however, the Feast of the Most Holy Name of Jesus, which falls on the Sunday after the Seventieth Sunday, should sometimes be transferred to this day, January 28th, then the Feast of Saint Titus must be transferred to another day, according to the rubrics concerning the transfer of feasts. Therefore, the question is: Is this to be done according to the will of the Holy Congregation, and if not, what is to be done in this case?

II. The parish church of the Holy Martyrs Crescius, Omnian, and Emptius, located in the place commonly called Valcana in the Diocese of Florence, celebrates the Feast of these same Saints on October 24th, and therefore the octave of that same feast falls on the 31st of that month. On this very day, the 31st, the Feast of Blessed Thomas Bellacci, a Florentine Confessor, is celebrated with a lesser double rite. Therefore, the question is: Is the Feast of Blessed Thomas to be transferred to the second of November, on which

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day it would fall?

[*Latin ed. p. 607*]

XII. Regarding the Commemoration of all the Faithful Departed, or to the third day, on which this commemoration takes place, when the Feast of All Saints falls on a Saturday, should it be transferred to the 5th of November, which always remains a holiday?

III. Since there is a distinction between primary and secondary feasts, is it the case that all feasts of the Blessed Virgin Mary, which are celebrated with a major double rite, with the exception of the Transfixion and the Presentation, should be considered secondary?

IV. If a certain feast is celebrated twice in a diocese, for example, the feast of Saint Raphael the Archangel on the third Sunday after Easter under a major double rite of the second class, and on October 24th under a major double rite, which is the primary feast, and which is the secondary feast? This distinction must be considered based on the higher rite, or on the day on which the same feast is celebrated in more places?

V. The feast of the Blessed Virgin Mary under the title of Mother of the Divine Shepherd, which is celebrated on the first Sunday of May, if it is impeded on that particular Sunday, was formerly transferred to the first free day according to the rubrics for the transfer of feasts. However, since the year 1840, it has been transferred to the second or third Sunday. If all the Sundays of that month were impeded, then it was transferred to the first free day after the Sunday assigned by the Holy Roman Congregation. Thus, the "Extensor Kalendarii" (Calendar Extender) claimed to have obtained permission, having assumed that a decree had been issued stating this. However, this decree is not found among the records of the Florentine Chapter, and, on the contrary, a response to a similar question is found for the diocese of Saint Minias, expressed in these words. No such decree is found in the records of the Secretariate of the Congregation of Sacred Rites. Therefore, the following is asked:

1. Has there existed since the year 1835 a decree stating that the feast of the Blessed Virgin Mary under the title of Mother of the Divine Shepherd should be transferred from Sunday to Sunday in the month of May?

2. If the answer is no, can such a transfer from Sunday to Sunday, as mentioned above, be made in the future, or rather, should it be done entirely according to the rubric for the transfer of feasts?

VI. Following the practice of the Florentine Calendar Extender, which has been useful to many for a long time, it mentions a decree issued by the Sacred Congregation on April 11, 1820, which is expressed as follows: On each day of the Octave of the Commemoration of all the Faithful Departed, only one Mass for the repose of the souls can be celebrated, even if it coincides with the Office of a minor double rite; provided, however,

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that it is not the Office of a Sunday, or a feast of precept. But whether this decree of the Sacred Congregation truly exists is highly doubtful; for it is not found in the collection of decrees of the Roman Sacred Congregation, although it is also mentioned in the calendars of other dioceses. Therefore, the following is asked:

[*Latin ed. p. 608*]

608 APPENDIX X II. Whether the aforementioned Decree is found in the records of the Holy Roman Church, or rather, whether it is apocryphal, the Sacred Congregation decided to investigate. To the Reverend Consul: Let the 28th of January be left free, and let Saint Titus be permanently assigned a seat on the 6th of February; these, however, must be duly noted in the Diocesan Calendar, and another day must be found in the same Calendar, observing the rules regarding the transfer of feasts. To Item I. According to other Decrees, the feast of Saint Thomas is to be perpetually observed on the 5th of November. To Item III. The case in question is to be explained. To Item IV. It is granted, and an Indult from the Apostolic See is to be exhibited, permitting the Office of Saint Raphael to be celebrated twice within the year. Furthermore, it is to be considered whether certain Masses, established by the founders, can be approved and even admitted in the future, to be solemnly celebrated before the Most Holy Sacrament in suffrage for one or more of the faithful departed, although such Masses, with the exception of their application, which has always been according to the intention of the founders, can never be celebrated for the repose of the dead, nor on those days when it would otherwise be permitted by the rules. Having received this response from the Sacred Congregation, and while the Bishop, the Orator, remained uncertain as to whether such Masses for the dead, when offered with the benefit of the privileged altar, could obtain the full Indulgence for the departed, he deemed it his pastoral duty to humbly request a declaration on this matter from the same Sacred Congregation. The Sacred Congregation, in its Ordinary Meeting held today at the Vatican, having carefully considered the aforementioned question, and having examined the Apostolic Letters in the form of Briefs from Alexander VII, dated January 21, 1667, Clement X, dated September 23, 1669, and Innocent XI, dated May 4, 1668, decided to respond as follows: "Affirmatively, provided that the altar where such Masses are celebrated enjoys the Apostolic privilege for the souls of the faithful departed." (1) On August 14, 1858. To Item V. Regarding the first question, negatively; regarding the second question, negatively in the first part, affirmatively in the second, by grace. To Item VI. The aforementioned Decree is found in the records of the Sacred Congregation, but it is only a special Indult for one province of Siena. On August 14, 1858. LIMBURG. To the Most Reverend Peter Joseph Blum, Bishop of Limburg, the Sacred Congregation responded on May 9, 1857, considering the long-standing custom of both his own Diocese and

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of many other regions of Germany. You see another Decree of the City and the World, recently published by the Sacred Congregation of Indulgences, which we quoted in Volume I, page 42.

[*Latin ed. p. 609*]

IX, XII. Afterward, when it had been presented by B. P. D., Secretary of the Most Holy Divine Congregation, that Most Holy Father deigned to ratify and confirm it. On the 19th of the same month and year. NOTHING, AMEN. The Most Reverend Richard Boskel, Bishop of Nothingam, explained to this Holy Apostolic See, by order of His Holiness, Pope Benedict XIV, that a commemoration of Saint George, the Martyr and Patron of the Kingdom, was to be held in all of England, and that the Cathedral Church of Nothingam had been duly consecrated under the title and invocation of Saint Barnabas the Apostle; and he further added that in the Roman Breviary, the same prayer was assigned for both Saint Barnabas and Saint George, differing only in the name of the Saint. Therefore, to remove all doubt, the Bishop, as Orator, humbly requested that this Holy See deign to declare whether, for those who are members of the Cathedral Church, when reciting the Divine Office throughout the year, after the commemoration of Saint Barnabas, the commemoration of Saint George the Martyr should be celebrated with that prayer which is found in the Roman Breviary on April 23rd, or rather, whether the prayer of Saint George should be varied by taking another from the Common of a Martyr, not a Pope, whenever it coincides with that of Saint Barnabas? The Holy Congregation replied, having considered the matter: "No, to the first part; yes, to the second part." On August 14, 1858. Acts, Vol. III, p. XXXV, 609. ORDER OF CARMELITE DISCALCED FATHERS. The extended Calendar of the Roman Province of the Order of Carmelites Discalced Fathers presented to the Holy Congregation on December 7, 1844, in Mechlin, regarding the eighth question: whether, in churches where the Conversion of Saint Paul is celebrated as a title with a double rite of the first class, along with the Octave, the other feast of the same Saint Apostle, namely, the commemoration of him on June 30th, should have a double rite of the first class, or of the second class, or only a greater double rite, as a secondary feast? The response was: Unless there is a special indult regarding the elevation of the rite, it enjoys only the rite of the greater double. The Orator, noting that in the Church of Saint Mary of Victoria, which his Order possesses in Rome, the Conversion of Saint Paul is celebrated as the title of that church, and therefore is celebrated with a double rite of the first class, along with the Octave, humbly supplicated the Holy Congregation for a declaration regarding the following questions, namely: I. Whether, in the aforementioned Church of Saint Mary of Victoria in the City, the Office of the Commemoration of Saint Paul the Apostle on June 30th should enjoy the greater double rite? II. And, if so, whether on the preceding day, June 30th, namely, on the feast

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of the Apostles Peter and Paul, the Second Vespers should be celebrated as in the Order's own church, namely, the entire Office following, along with the commemoration of Saint Peter the Apostle?

[*Latin ed. p. 610*]

610 APPENDIX XII. The Holy Congregation, in order that the parish priest and his vicars may in the future properly perform their duties, decided as follows: Regarding I. That the Church, truly dedicated for a suitable definition under the title of the Conversion of Saint Paul, should be referred to the Congregation for Sacred Rites. Therefore, certain doubts were reported by the Reverend Father Secretary to the Ordinary Assemblies of the same Holy Congregation, after careful consideration, and the following was decided: "Unless it is established that a special Indult exists concerning the elevation of the altar, the rite shall be performed only with a lesser amount of ornamentation." Regarding II. It was decided in the negative, and on the 29th of June, it was determined that the titular altar where the parish is established does not enjoy the privileges of a church of the first class with an octave, nor should the Mass be celebrated with greater solemnity by the parish priest and his vicars, except for the Commemoration in suffrage, which may be added by the parish priest and his vicars. On the 14th of August, 1858. QUEBEC. The Most Reverend Father Francis Baillergenn, Bishop of Isle, Coadjutor and Apostolic Administrator of the Diocese of Quebec, presented a case to the Holy See. On the 14th of August, 1858. SAINT-CLAUDE. The Apostolic Parish of Saint-Claude, canonically erected in the year 1670, has an altar in the side aisle of the Cathedral, bearing the title proper to that Cathedral Church; the parish priest and his vicars, from the time of its erection until now, have always performed the titular feast of that altar with the rites proper to titular feasts, namely, with a double octave; however, the Holy Congregation has indicated that it should not add the Commemoration with common prayers, or with the suffrage of the Saints, as often as those suffrages are prescribed by the rubrics. The Bishop, however, doubts whether this has been done correctly up to now, and whether, according to the instruction given, he should proceed in this manner. The Holy Congregation has indicated that the rule of action should be taken from the Roman Ritual, "Concerning the Sacrament of Extreme Unction, c. I, §. XIII." "But if it happens that [the parish priest], because the sick person is far from the parish church, administers the sacrament in another place..."

[*Latin ed. p. 611*]

"A fever and illness, not without the danger of death, afflict him; therefore, the Most Holy Body of the Lord is brought to him, so that when he returns to his parish residence, he may receive it before death overcomes him, and so that he may not be deprived of the Sacrament of Extreme Unction,

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which should be administered to him; he also carries with him the vessel of that sacred Unction, to administer it to him after he has received the Body of the Lord, if he deems it necessary, given the severity of his illness and the danger of death." Having communicated this to you in accordance with my duty, I earnestly pray that you may long remain in good health. Rome, 14th of August, 1858. To the Reverend Father Henry De Vaulchier, Parish Priest of the City of Dole, Diocese of Saint Claude.

TUNQUINI OCCIDENTALIS.

The Reverend Lord Charles Rubert Ieantet, Bishop of Pentacomia, Coadjutor Vicar Apostolic of Tunquini Occidental, has requested, with supplicating prayers, that this Holy See would deign to allow him to express his opinion on the following three questions, namely:

I. Can a Deacon, who, by order of his Apostolic Vicar, brings the sacred Viaticum to the sick, perform the following actions: sprinkle with blessed water, say the "Miserere," bless the sick person, or bless himself, say "Dominus vobiscum" with the prayer, and bless the sick person and those present with the Most Holy Sacrament? If not, what should be done?

II. If the same Deacon, by the same order, prays for the deceased during Vespers, or Compline, or at the funeral prayers in the Ritual, must he refrain from singing or reading them? Must he refrain from reading the "Nunc intres," sing the "Libera," and can he refrain from sprinkling the body with blessed water, incense, and blessing the tomb, and saying other prayers, except those permitted according to the Ritual, especially if he performs these privately in private homes?

III. In the Litany of All Saints, after the verse: "Holy Raphael," if a distinct invocation of the nine choirs of Angels is added, or if an invocation of one or more Saints is added for any devotion, are all the Indulgences granted by the Supreme Pontiffs lost when reciting the Litany in this way? If the answer is affirmative, the Bishop, as an orator, implores this Holy See to deign to grant him those same Indulgences again.

The Sacred Congregation has decided that a response should be given.

To I. With the absence of a Priest and with the consent of the Apostolic Vicar, the answer is affirmative in all cases.

To II. As to the first.

To III. The Decrees should be observed, which forbid any addition in the Litany.

14th of August, 1858.

ULTRAIECTEN.

To the Most Illustrious and Reverend Sir, as a Brother.

At the Ordinary Assemblies of the Holy Roman Church, held today at

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the Vatican, the undersigned Secretary presented letters from Your Eminence, from His Holiness Pope Pius X, dated the 4th...

[*Latin ed. p. 612*]

612 APPENDIX X II. On the twelfth day of March of the present year, the Most Reverend and Reverend Fathers, entrusted with safeguarding the sacred rites, most earnestly recommended to Your Eminence the adoption, within this Diocese of Utrecht, of the Roman Ritual, excluding all other ritual books. They could not, in the least, doubt that Your Eminence would immediately order its implementation. Concerning the unction of the loins, which, as Your Eminence testifies, has never been practiced in this Diocese in the administration of the Sacrament of Extreme Unction, and which, therefore, it is requested to be permitted to omit in the Roman Ritual, the Holy Congregation judged that no suppression or alteration whatsoever should be introduced, either in this matter or in any other, but that it should be printed integrally and faithfully, as it was edited by Paul V and revised and corrected by Benedict XIV. However, if the unction of the loins has hitherto been unusual here, the Holy Congregation declared that it would patiently endure, should the particular circumstances of this Diocese prevent the immediate and universal introduction of this practice; nevertheless, it expressed its most ardent desire that, under Your Eminence's care, and with the instruction of the parish priests, the faithful should gradually and prudently be accustomed to receiving this also, special unction in their final agony, according to the prescriptions of the Roman Ritual. While, in the discharge of my office, I communicate to Your Eminence the mind of the Sacred Congregation, I earnestly pray that it may live long and prosperously. Rome, on the 14th of August, 1858. To the Most Reverend and Reverend Lord, as Brother Archbishop of Utrecht. VENAFRO. In the City of Venafro, where, from ancient times, the family of Capuchin Fathers has existed, belonging to the Monastery of the Holy Nicander, Marcian, and Daria, only in the preceding year of 1857 did the Fathers of the Order of Minor Friars of the Observance open the Monastery of Santa Maria de Monte Carmel for their own Order, with the approval of the Apostolic See. Immediately, a dispute arose between the two religious families concerning the right of precedence in supplications and other public functions. This was brought before the Most Reverend Bishop of Venafro, who, to prevent the progress of discord while the dispute was pending, wrote on the 6th of February, instructing that the opinion of each General Procurator should be sought, and then placed on record, along with the opinion of a chosen Master of Ceremonies, and that, meanwhile, without prejudice to the rights of either party, the final decree should be preserved in the Convent. After the communication of this rescript, and when the rights of both parties had been presented, and the opinion of the chosen Master of Ceremonies had

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been given...

[*Latin ed. p. 613*]

IX, XII. Regarding a Vow: His Most Eminent Lordship, Cardinal Ludovicus Altieri, in the Ordinary Congregations of the Holy Roman Church, held today in the Vatican, proposed the following question: Whether the Brothers Minor of the Observance, or rather, the Brothers Minor Capuchin, ought to precede in processions and other sacred functions? The Sacred Congregation responded negatively to the first part, and affirmatively to the second.

TURIN. To Rome, dated [date not provided]. Concerning the controversy which the Reverend Parish Priest of the Church of the Holy Martyrs in the city of Turin raised last year against the Reverend Parish Priest of San Dalmata, regarding the establishment in that church of a Society of the Holy and Immaculate Conception, and of the Sacred Heart of the Blessed Virgin, for the conversion of sinners, a decision was made in the Ordinary Congregations of the Holy Roman Church, held today in the Vatican. Therefore, upon the request of His Eminence and Most Reverend Cardinal Joseph Bofondi, the Sacred Congregation, having heard what was presented by you last year in your letter of May 26th, having examined the written claims presented by both sides, and after careful deliberation, as indicated by the superior of the Office of Apostolic Ceremonies, judged that the prior existence of the Pious Fraternity of the Most Holy and Immaculate Heart of the Blessed Virgin, established canonically in the parish church of the Holy Martyrs, for the conversion of sinners, and the Archconfraternity of the Blessed Virgin, number 613, of Paris, which has long been associated with the granting of indulgences, in no way impedes the simultaneous existence of the Society of the Immaculate Conception, and of the Sacred Heart of the Blessed Virgin, for the conversion of sinners, recently established in the parish church of San Dalmata, under the authority of the Ordinary, nor is there any reason to apply the Constitution *Quaecumque* issued by Clement VIII on December 17, 1604.

However, since in the matter under consideration, the rights of the parties must be considered in such a way that simultaneous attention must be given to what most contributes to the spiritual edification of the faithful, the same Sacred Congregation, with your prudent judgment, has entrusted to you the task of dividing, as you deem fitting in the Lord, the public exercises of piety which are performed by both fraternities in their own churches, if it should happen that these are performed on the same days and at the same times, and if this might give rise to discord and complaints. In the meantime, I earnestly pray that you may long remain in good health.

Rome, August 14, 1858.

To the Most Reverend General Vicar of Turin.

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GRANADA. His Most Reverend Lordship, Salvator de Rogas, Archbishop of Granada, humbly requests, for the sake of his peace of mind and the fulfillment of his pastoral duties.

[*Latin ed. p. 614*]

614. APPENDIX XII. To the booklet which this Sacred Congregation humbly requested, that the following questions concerning the celebration of Mass on the anniversary of the election and consecration of a Bishop, and of the creation and coronation of the Supreme Pontiff, be answered, namely:

I. Whether the Solemn Mass on the anniversary of the election and consecration of a Bishop is obligatory in cathedrals and collegiate churches of the diocese, although the *Ceremoniale Episcoporum*, book 2, chapter 35, number 1, only states that it is fitting to be celebrated?

II. And, to the extent that the answer is affirmative, whether this Solemn Mass is obligatory in both anniversaries, both of the election or confirmation, as well as the consecration, as it seems to indicate the *Ceremoniale*, and as Talò believes to be the case according to Decree 817 of his collection, or whether it is only obligatory in the anniversary of the consecration, as it also seems to indicate the Roman Pontifical, part 1, title 13, *in fine*, as well as the Decrees of this Sacred Congregation, and the practice of the Churches?

III. Whether, besides this Solemn Mass to be celebrated in the cathedral and collegiate churches after Prime on that day, or those days, the priests of the same cathedral and collegiate churches are obliged to make a commemoration of the aforementioned anniversary, or anniversaries, in private Masses, although Merati, in *Gavantum*, part 1, title IV, number X, states otherwise, with the practice, as he says, of the basilicas of the city, in which, besides the Solemn Mass on the anniversary of the creation and coronation of the Supreme Pontiff, no private Mass, or commemoration, is celebrated by the priests of those very basilicas?

IV. And, to the extent that the answer to question three is affirmative, whether they are also obliged to make a commemoration of the same anniversary, or anniversaries, in both chanted and recited Masses, all secular priests of the entire diocese, using the diocesan calendar, notwithstanding any contrary ancient custom?

V. And, to the extent that the answer to question four is affirmative, whether they are also obliged to make a commemoration of the same anniversary in all chanted and recited Masses, all regular priests of the entire diocese, using their own calendar, notwithstanding the equally contrary perpetual custom, and that their calendars generally include more dioceses?

VI. According to the Decree of the Sacred Congregation in Aquileia, on

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September 2, 1741, concerning a Bishop who has been transferred, a Mass is to be celebrated in the church to which he was last assigned, on the day that the Pope appointed him to that church; it is therefore asked whether a Mass, or at least a commemoration, of his consecration should also be celebrated, or can be celebrated?

VII. Whether, throughout the Catholic world, it is obligatory to commemorate the reigning Supreme Pontiff in all chanted and recited Masses on the anniversary of both his creation and his coronation?

[*Latin ed. p. 615*]

615 APPENDIX X I I . Concerning the coronation of the mountain of the same, namely ALBANI, although it has not been performed here, nor has such a practice been known in the Gallic regions by this Holy Roman Church, nor does it seem necessary to implore divine assistance through votive prayers, nor is it found in the chapters 31 and 32 of the Ceremonial of the Holy Roman Church.

I. Can a priest, when marriages are celebrated outside of Mass, as frequently happens in the churches of the Diocese of Monte Albano, impart the blessing to the spouses and recite the prayers which are found in the Missal for the bride and groom, which prayers are to be said both after the Our Father, and before, if it pleases, when it is not a question of marriages, on the day of September 17, 1785, in Portugal, and on May 23, 1835, in Namur?

The Holy Congregation, having heard the question of one of the Masters of Ceremonies, responded:

1. Affirmative.

2. Affirmative, concerning the first question.

3. Affirmative, concerning the first question.

4. Affirmative, concerning the first question.

5. Affirmative, according to the Decrees in Portugal.

II. Is it permissible to postpone the Mass for the bride and groom, and the blessing, to the next day, or to another day, even if the spouses are to be blessed before the priest, and if the anniversary of the translation is not to be taken away from the anniversary of the consecration of the Bishop?

6. Concerning the Anniversary of the Translation, nothing is to be taken away from the Anniversary of the consecration of the Bishop.

7. Affirmative, indeed.

On August 14, 1858.

(1) The cited Decrees are as follows: In Portugal, it was asked: "III. How is the anniversary of the consecration of the Bishop to be celebrated, if it occurs on a minor feast day? There is reason to doubt, because a minor feast day is not among the more solemn ones mentioned in the Decree of

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the Holy Roman Church of April 4, 1705, nor is it a feria, according to the Ceremonial of Bishops, book 2, chapter 25." To this, the Holy Congregation responded: "To III. According to the opinion of the Reverend Master of Ceremonies, namely, if the Office of the minor feast day occurs on the day of the consecration of the Bishop, the Office is to be recited of the said minor feast day; in private Masses, if they occur, a commemoration of the consecration is to be made with the Collect: 'O God, of all the faithful...' after the Non, and a solemn Mass is to be celebrated for the election or consecration of the Bishop with the Gloria, Creed, and Preface of the Common."

In Namur. "VII. On the anniversary of the consecration of the Bishop, is a commemoration of the same consecration to be made by all priests throughout the Diocese, or only in the cathedral?" To this, the Holy Congregation responded: "To VII. According to the practice and Decree in Portugal, on September 17, 1785, a commemoration is to be made in all Masses throughout the Diocese, except in the Solemn Mass, which is to be said in the cathedral and collegiate churches, in which after the Non, the sung Mass of the same anniversary is to be said."

[*Latin ed. p. 616*]

616 APPENDIX: Whether a dowry should be received in the temple, and whether the spouses should cohabit in the same house?

I. Whether the prohibition of marriages during Advent and Lent should only apply to the Mass for the Spouses, and to the prayers for the blessing of the betrothed found in the Missal, or whether it also applies to the marriage itself, which is celebrated with only the ceremonies and prayers found in the Ritual?

II. Whether a license granted by the Bishop to contract marriage during the times prohibited by the Holy Council of Trent is considered to also permit the blessing of the spouses through the prayers and orations contained in the Mass for the Spouses? And if so, whether the Bishop can grant this faculty in such a case?

The Sacred Congregation decided that a response should be given.

To I: Negatively in all cases.

To II: Negatively in this case.

To III: Affirmatively regarding the first part, and negatively regarding the second, provided that the permission of the Bishop is obtained.

To IV: Negatively in all cases.

On August 14, 1858.

BRIOCENSIS. The Reverend Vicarius Capitularis of the Diocese of Saint-Brieuc and Tréguier, reported to this Apostolic Holy See that, in the diocesan calendar, approved by the same Holy See on April 15, 1847, the feast of the Canonization of Saint William, Bishop of Saint-Brieuc, was affixed to be celebrated in the Cathedral with a rite of the second class, and in the

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diocese with a rite of the greater class; furthermore, in the same calendar, the feast of Saint Paternus, Bishop, occurs on the following day, April 16th, with a rite of the greater class. Since this year, 1859, the feast of the Seven Sorrows of the Blessed Virgin Mary falls on April 15th, the aforementioned orator requested that this Holy Congregation declare whether the feast of the Sorrows of the Virgin should be celebrated in the same Cathedral on the immediately following day, namely April 16th, with the feast of Saint Paternus being transferred according to the rubrics? Or rather, whether the feast of Saint Paternus should be recited, with the feast of the Seven Sorrows being transferred to the first free day after Sunday in Albis?

The Sacred Congregation decided that a response should be given:

Regarding the first, affirmatively; regarding the second, with the provision stated above.

On March 26, 1859.

NORTINGHAMEN. From the Secretary, it was reported at the Ordinary Assemblies of the Holy Roman Congregation held today in Vatican, with the most humble prayers, in which the Most Reverend Richard Roskel, Bishop of Nottingham, requested to be declared: Whether the feast of Saint Barnabas the Apostle should be celebrated in that Cathedral, which is its titular church, with a rite of the first class, along with its Octave, only by those who are truly members of the same Cathedral Church, or rather, according to other decrees, by the entire secular clergy of the entire diocese?

The Most Reverend Fathers, entrusted with safeguarding the sacred rites, responded: Negatively regarding the first part, affirmatively regarding the second.

On March 27, 1859.

[*Latin ed. p. 617*]

x xii. CONGREGATIONIS SCHOLARUM PIARUM. The Provincial Superior of the Congregation of the Piarist Schools of both Castiles, having received numerous requests, petitioned this Holy Roman Congregation to declare the following doubts, namely:

I. When, in the year 1859, three feasts of the second class, of double rite, occur within three consecutive days, namely, the Feast of the Sacred Heart of Jesus on the first of July, the Feast of the Visitation of the Blessed Virgin Mary on the second, and the Feast of the Precious Blood of Our Lord on the third of the same month; the question is, how should the Vespers for these aforementioned feasts be arranged in view of their concurrence?

II. The Commemoration of Saint Paul the Apostle, which, according to the privilege in Spain, is to be transferred this year, 1859, to the fifth of July, according to the proper rubric; but since, on the following fifth of July, the Feast of the Vespers of the Commemoration of Saint Paul is celebrated in Spain with a lesser double rite, it is asked how the aforementioned com-

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memoration should be performed; whether through the Antiphon of Saint Paul with the subsequent commemoration of Saint Peter, or rather, through the common antiphon of the two Saints Apostles?

III. In the Province of Castile of the Piarist Schools, according to the prescription of the Rule, the entire Office of the Dead is solemnly chanted on the third of November for all the Religious of the Order, and on that same day, all Masses should be offered for the 617 Religious who have passed away. Indeed, it has long been the custom in the aforementioned Office, at the Lauds, to omit the Psalm "De profundis," and to celebrate all Masses for the Dead, although on the third of November, in Spain, the lesser double Office of the innumerable Martyrs of Caesaraugusta is celebrated; contrary to the opinion of some, others maintain that the ancient custom can be preserved, especially because the Office is chanted, not recited. The question is, therefore: is it permissible to omit the Psalm "De profundis" in such a solemnly chanted Office, and also, can Masses be celebrated for the Dead, notwithstanding that the lesser double Office of the aforementioned Saints Martyrs is being recited?

The Sacred Congregation decided to respond as follows:

To I: According to the rubrics and the decrees of this Sacred Congregation, the Feast of the Visitation of the Blessed Virgin Mary must have both Vespers in their entirety.

To II: Negatively to the first part, affirmatively to the second.

To III: Negatively in all respects.

March 26, 1859.

FESULAE.

When the Most Reverend Lord Joachim Antonielli, Bishop of Fesulae, petitioned this Sacred Congregation to declare whether sacred vestments of silk, of the color yellow, may be used, in order to remove any further anxiety among the clergy concerning this matter.

[*Latin ed. p. 618*]

618 APPENDIX XII. Whether the color white can still be used in place of color, and whether it may be renewed? The Sacred Congregation decided that it should be answered; according to other decrees, negatively in all cases. March 26, 1859. CADURC. The Editor of the Liturgical Calendar of the Diocese of Mechlin, having requested a solution to certain doubts from this Sacred Congregation in 1844, in the second question asked: According to the Decree of the Sacred Congregation of November 12, 1831, the feast of the titular chapel of public oratories, which exist in monasteries and religious houses, should not be celebrated with the rite of the first class, with the Creed and the octave. However, there are more such oratories blessed, and sometimes even consecrated, in the Diocese of Mechlin, to which at least one priest is assigned as director or pastor, who, by a special

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commission from the Ordinary, not only celebrates Mass there, but also performs certain pastoral duties, such as instructing the people, administering some of the Sacraments, etc. Therefore, the question is asked, whether the aforementioned oratories are also included in the aforementioned Decree? To this question, the Sacred Congregation responded on December 7 of the same year, 1844: Negatively, according to the Decree of December 12, 1831. Indeed, in the Index of the Collection of Authentic Decrees of the Sacred Congregation, the aforementioned Mechlin Decree is indicated in this way: The titular oratories or chapels are not to be venerated with the rite of the first class with the Octave. The Reverend Father Ferrand, from the city of Cahors, with the consent of the Most Reverend Ordinary, humbly requested that this Sacred Congregation declare what should be observed in practice by priests assigned to chapels, in which, by a special commission from the Ordinary, certain pastoral duties are performed? The Sacred Congregation decided that an answer should be given: Adhere to the decision as contained in the aforementioned Decree of December 7, 1844, regarding Question II, and it was not the opinion of those who interpreted that Decree, but an error by the compiler of the Index. March 26, 1859. MECHLIN. In order that everything may be arranged and done according to the Rubrics and Decrees of the Congregation of Sacred Rites in the recitation of the Divine Office and the celebration of the Holy Sacrifice of the Mass, the current Editor of the Mechlin Calendar, with the express consent of the Most Reverend and Illustrious Lord Cardinal Engelbert Sterckx, Archbishop of Mechlin, proposed the following questions to the same Sacred Congregation, so that it would deign to declare what should be done in the cases presented. I. On Sunday, July 1st, the feast of the Precious Blood of Our Lord Jesus Christ falls. However, this year, 1859, the feast of the Most Sacred Heart of Jesus, which was previously celebrated on the preceding day (which was the day fixed for it in the Mechlin Calendar), will be celebrated with the greater double rite.

[*Latin ed. p. 619*]

(Delivered on the 23rd of August, 1850.) The question is raised whether, in the Second Vespers of the Feast of the Precious Blood, the commemoration of the following Feast of the Most Sacred Heart should be omitted, as was decreed on the 17th of August, 1851, concerning the concurrence of the Octave of Corpus Christi with the same Feast of the Most Sacred Heart.

I. The Most Holy Roman Congregation, in Ostia, on the 6th of September, 1834, decreed that the commemoration of the Most Holy Sacrament should be omitted in the solemn Mass of the Most Sacred Heart of Jesus, celebrated with singing, on that feast day, before the Most Holy Sacrament is exposed. Later, the following doubt was proposed: whether the commemoration of the Venerable [Pope] should be omitted when the proper Mass of the Most Sacred Heart of Jesus is said at the altar, where the Most Holy Sacrament

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is manifestly exposed, if otherwise, the aforementioned commemoration would be performed. And the same Holy Congregation, in Mechlin, on the 22nd of May, 1841, responded: It can be permitted in the manner of a Collect. Consequently, a difference arose in practice in the aforementioned Archdiocese. Some, indeed, maintain that the disposition of the Decree in Ostia, on the 6th of September of the year 1834, and the subsequent Decree in Mechlin, must be strictly observed; they understand that these apply only to the case in which the commemoration of the Venerable is prescribed by the Bishop in the manner of a Collect or an obligatory Prayer. Others, on the contrary, maintain that the commemoration of the Venerable can always be added, provided that it does not conflict with any rubric. Therefore, the question is raised as to what is the meaning of these words in the aforementioned Decree of the 22nd of May, 1841: "in the manner of a Collect."

II. In the same year, 1859, on the 30th of June, the commemoration of Saint Paul the Apostle must be transferred in the Diocese of Mechlin to the 5th of July, due to the concurrence with the Octave of Corpus Christi. The following day, that is, on the 6th of July, the Office for the Octave of the Most Holy Apostles is to be performed. The question is raised first: whether, in this case, the complete Vespers are to be of the Octave of the Saints, as in the Breviary, or of the preceding Feast of the Commemoration of Saint Paul, with the Commemoration of Saint Peter? The second question is: how are the Vespers to be arranged when the Commemoration of Saint Paul is to be celebrated the day after the Octave of the Most Holy Apostles, that is, on the 7th of July: whether they are to be of the Octave of the Most Holy Apostles, or rather, of the following Feast of the Commemoration of Saint Paul, with the Commemoration of Saint Peter?

III. In those churches which are dedicated to the Conversion of Saint Paul the Apostle, which is consequently celebrated with a double rite of the first class, with an Octave, the Office for the Feast of the Chair of Saint Peter is sometimes performed within that Octave, which is accidentally transferred from the 18th of January. The question is raised whether, in this case, for the commemoration of Saint Paul, the antiphons for the First Vespers at the Magnificat and for the Lauds at the Benedictus should be taken from...

[*Latin ed. p. 620*]

620 RESP. IX, XII. Antiphons with a Prayer from the feast of the Conversion of the same: are these, which are assigned in the Breviary and Missal on the Chair of St. Peter on January 18th? S. C. considered it opportune to respond. To I. Affirmative. To II. The words are to be understood in the manner of a Collect, that is, of a Collect or Prayer for a public cause ordered by the Bishop. To III. Regarding the first question: should the Office be performed from the chapter of the octava of the holy Apostles with a single Prayer common to both Apostles? Regarding the second question:

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should the Office be performed from the chapter of the Commemoration of St. Paul with his own proper Prayer, distinct from the commemoration of St. Peter? To I & II. Affirmative to the first part, negative to the second part. March 26, 1859. APOSTOLIC VICARIATE OF TUNKINI OCCIDENTALIS. Reverend Monsignor Peter Andrew Retord, Bishop of Acanten. The Apostolic Vicar of Tunkini Occidental submitted the following question to the Congregation of Rites for appropriate declaration: whether, when the feast of St. Titus, Bishop and Confessor, cannot be placed before January 19th, on which day the feast of St. Canute, King and Martyr, falls under a semi-double rite at will, it should be placed on the aforementioned day? And if so: whether the commemoration of St. Canute should be performed, as also of the feasts of the Blessed Virgin Mary and All Saints, or rather, whether the commemoration of St. Canute should be entirely omitted? Or would it not be better to perform the Office of St. Canute on his proper day under a semi-double rite, and to transfer the feast of St. Titus to the first following day that is not impeded? S. C. considered it appropriate to respond: The feast of St. Titus should be assigned, as in its proper place, on February 6th, unless another feast of higher rank or a proper feast of the diocese occurs on the same day in the diocesan calendar. March 26, 1859. EUGUBINA. Reverend Monsignor Innocent Sannibale, Bishop of Gubbio. The Bishop of Gubbio reported to this Holy See that in the year 1805, at the order of the Most Reverend Angeletti, Bishop of Gubbio, a book of the Saints of the Diocese of Gubbio was published, entitled: "Offices of the Saints, to be recited by order for the Religious in the Church of Gubbio, by Apostolic Indult"; he also added that the Religious, although subject to the Ordinary, omit the recitation of the Offices described in the aforementioned book (of which some do not even have a Rescript of concession), except for the Offices of the Patron Saint of the place and the Dedication of the Cathedral Church, which the Religious must also recite. Now, the Bishop, as an Orator, has requested that this Holy Congregation declare: I. Whether the Bishop can, or should, order all the...

[*Latin ed. p. 621*]

IX. XII. To Nuns: Concerning the recitation of the Offices, which are contained in the aforementioned booklet, although the Nuns themselves, because of the multitude of Offices in the Order's calendar, are obliged to reduce several Offices each year to the simple rite? Q. When, on the feasts of the Patron Saint and the Dedication of the Church, the Cathedral of Gubbio, by the gracious concession of the Holy See, the Secular and Regular clergy recite the proper Offices; is it asked whether the Bishop, as pastor, can or even ought to order the Nuns subject to him to adopt these very Offices, even if they use the calendar of their own Order? The Sacred Congregation answered: I. Negatively, unless in the granting of the concession, these Offices have been declared to be obligatory even for

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Regular Canons who do not use the Diocesan calendar. I. I. Affirmatively, provided that the Breviary used by the Nuns does not differ from the form of the Roman Breviary. March 26, 1859. FROM THE CONGREGATION OF CLERICS OF THE MOST HOLY CRUCIFIX AND PASSION OF OUR LORD JESUS CHRIST. The Clerics of the Congregation of the Most Holy Cross and Passion of Our Lord Jesus Christ, residing in the sacred retreat of the town of Paleano in the Diocese of Prenestina, have presented to this Holy Apostolic See, in the same town and territory, that on the second day of December, a particular feast is observed under double precept, namely, the Feast of the Translation of the Holy Image of the Blessed Virgin Mary, commonly called of Zancati, with the Office and Mass celebrated with a more solemn rite; and they humbly request that the Holy See would deign to declare whether, given the Decree of this Holy Congregation of May 5, 1736, concerning the fifth question regarding the Translation of Feasts, those Religious residing within the limits of that territory, even if they use the calendar of their own Order, are obliged on the same second day of December to recite the Office of the Translation of the aforementioned Image, of which they already observe the feast, which has been permanently transferred to the first following day, not impeded, to the Office of Saint Bibiana, Virgin and Martyr; or rather, whether, observing the fast on the eve and on the feast under both precepts, they are obliged to fulfill the Office of Saint Bibiana, Virgin and Martyr, which occurs in their own calendar, with a semi-double rite? The Sacred Congregation answered: Affirmatively to the first part, negatively to the second. March 26, 1859. TARNOVIEN. The Most Reverend Joseph Aloysius Pukolski, Bishop of Tarnovien, burning with the desire that the sacred functions be properly performed in his Diocese, observing the rubrics and decrees and prescriptions of the Holy Roman Church, humbly requested that the Holy See would deign to express its opinion on the following questions.

[*Latin ed. p. 622*]

622 APPENDIX I. Whether, when celebrating Vespers before the Blessed Sacrament exposed, a commemoration of the same should be added, and whether the verse, "May the souls of the faithful rest in peace through the mercy of God," should be omitted.

II. Whether, on the occasion of Indulgences, or in a similar circumstance, when the faithful frequently approach the Holy Sacrifice, it is permissible to distribute the Eucharistic bread to them, either within or outside the church, while they are kneeling in genua, or rather, whether it should only be distributed near the altar rails, or on the steps of the altar, covered with a clean linen cloth.

III. Whether, when the priest is to incense the Most Holy Sacrament, after having placed it under the throne or baldachin, he should place the incense in the thurible while standing or kneeling, or whether he should

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incense the Most Holy Sacrament in the form of a cross, using nine or even more thurible trails; or rather, whether, after a profound act of reverence, he should direct only three trails in the same line towards it, as is done in the incensation of the Cross.

IV. In our regions, from time immemorial, it has been customary, in processions that are made with due reverence for the Most Holy Sacrament, to bestow the Eucharistic blessing upon the people once before the procession and more frequently as the procession continues. Furthermore, in the solemn procession that is held on the feast of Corpus Christi, it has been customary that whenever the procession approaches or departs from a station, the blessing is given, and upon returning to the church, the celebrant, chanting the hymn, "Te Deum laudamus," blesses the four directions; and again, within the church, the celebrant blesses the people from the altar, singing, "Benedic, Domine, et benedixisti," after having thrice recited, "Salvum fac populum tuum, Domine." Finally, in smaller processions, it has been customary that upon returning to the altar, the hymn, "Rex Christe, primogenite," etc., is recited, and at the words, "Tuo nos Corpore refice, et sacroque Sanguine ablue," the blessing is given, and the same is repeated after the singing of the stanzas, "Tantum ergo Sacramentum," etc., and before the celebrant dismisses the people, who are accustomed to hold the Most Holy Sacrament in their hands during this interval. The question is, whether all of these things are done properly.

V. Whether the veil that is placed on the shoulders of the priest to carry the Most Holy Sacrament should be of the color of the day.

VI. Due to the distance and custom, it has been the practice in these regions that the sacred Viaticum is not carried to the sick in a pyx, but in a similar vessel, a paten, which is covered with a lid, and to which another vessel is attached for the holy oil. This vessel is usually wrapped in linen and placed in a pouch sewn into the stole, in which it is also customary to keep the Rituale, a cotton cloth, candles, and a cross.

[*Latin ed. p. 623*]

Concerning vestments: It is asked, therefore, what color is suitable for this cope, when the Sacred Viaticum is carried to the sick with the Holy Oil?

VII. Whether a priest may lawfully use a two-colored stole in administering the Sacrament of Baptism, one side violet and the other white, according to the opportunity, by turning it so that the color preferred by the rubric is displayed?

S. R. Congregation answered: To I. Negatively to both. To II. It is fitting in this case that more kneeling benches or stools be placed here and there around the choir or within the church, and that at the ends of the space, at least two candelabra be placed, which should always be lit while the

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Sacred Communion is distributed to those kneeling. To III. The priest, while placing incense in the thurible, must stand; but concerning the Most Holy Eucharist, he must incense it only three times, but with bowed knees, and both before and after the incensation, with a deep inclination of the head. To IV. The uses mentioned are foreign to the rubrics and decrees prescribed, so that in the supplication of the Most Holy Sacrament, the blessing should not be given so frequently outside the church, but only once or twice; so that the Most Holy Sacrament should be placed upon the altar when returning from the supplication, and blessed only once with it, according to numbers XII, 623, and indeed after the singing of the Stropharum, Tantum ergo – Genitori Genitoque, with the verse and prayer; finally, that nothing at all should be sung during the act of blessing. To V. The humeral veil should always be of the color white. To VI. This practice cannot be tolerated at all, and it should be ensured by the Bishop that the prescriptions of the Roman Ritual are observed. To VII. Affirmative.

March 26, 1859. SANTIAGO DE COMPOSTELA. The Sacred Congregation of Rites, to the Most Reverend Lord Michael Sarcia Cuessa, Archbishop of Santiago de Compostela, humbly responds to the request of the Calendar ecclesiastical for the use of the clergy of the diocese entrusted to him: Whether on the day of the Commemoration of all the Faithful Departed, some feast of double rite that remains at the end of the year can be transferred, and reduced to simple rite? It was decided to respond: Affirmative, insofar as it concerns a minor double feast, to which, otherwise, according to the order of the translation of other Offices on the same day, the transfer would pertain; and provided that in this way, a place can be given before the end of the year to another double feast (but not a semi-double feast), also transferred.

March 26, 1859. CARTHAGE. When the Most Reverend Lord Marianus Barrio, Bishop of Carthage, humbly requested the S. R. Congregation, concerning the following doubt...

[*Latin ed. p. 624*]

624 APPENI wished to elicit an opinion, namely: In public processions of this Cathedral Church, whether the relics of the patron of the diocese, which are carried enclosed in a large silver chest upon the shoulders, ought to precede the image of the Blessed Virgin Mary (and not the patron or special titular saint), which is also carried upon the shoulders. The Sacred Congregation decided that the image of the Blessed Virgin Mary ought to occupy the more honorable place before the relics of the patron. March 26, 1859. SAPPEN. Since the feast of Saint Mark the Evangelist this year falls on the second day of Easter, and on that day, according to the rubrics, a major procession of litanies is to be held, the Most Reverend Lord Peter Severini, Bishop of Sappen, requested that the Holy Congregation declare whether the Sacred Missions in Albania, in which there is only one priest,

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ought to celebrate the Mass of Supplication after the procession; or rather, the Mass of the second day of Easter, taking into account, above all, that in these regions, the second and third days of Easter are still observed as holy days by command. The Sacred Congregation decided to respond: In the case in question, the Mass of the 12th day should be said with the commemoration of Supplications, under a single conclusion. March 26, 1859. IMOLEN. To the Most Reverend and Reverend Lord Bishop. Although the Holy Congregation wrote in Eystecten on September 1, 1838, that nothing prevents the nuptial blessing prescribed in the Missal from being given within the Mass, outside of the Mass; nevertheless, in a more mature deliberation, in Limburg on June 23, 1853, and by order of His Holiness Pope Pius IX, it was decreed: That the nuptial blessing must only be given in the Mass, and it declared this again shortly thereafter on August 14, 1858, in response to questions on the matter proposed by the Bishop of Montauban. Therefore, since the most recent decrees of the Holy Congregation intend to remove the solemn blessing of marriage from the Mass, Your Eminence sees that the questions presented by you, which seemed to allow this, can no longer have any place today, after the aforementioned Decree in Eystecten, which is the only one upon which they are based (1). In the meantime, Your Eminence, I humbly kiss your hand. To Your Eminence, from Rome, on March 26, 1859, the Most Reverend and Reverend Cardinal Caietano Baluffi, Bishop of Imola. (1) Here you have a clear example of how the Sacred Congregation has receded from previous decisions in the declaration of liturgical law, according to what I noted at the beginning of this appendix.

[*Latin ed. p. 625*]

APPENDIX xii. STRIGONIEN. At a Provincial Synod recently held in Strigonia, a dispute arose concerning the precedence of seating and signing among the bishops of the province who were gathered there. While some maintained that the order of precedence among the suffragan bishops should be determined from the day on which each of them obtained their comprovincial see, the Most Reverend George Girk, consecrated as bishop and holding the title of Bishop of Adras, in the territory of *donatus*, and who was appointed Provincial Bishop of the Five Churches on March 10, 1853, after lodging a protest, and citing Canon VIII, dist. 17, Canon *Placuit* 1, dist. 18, Cap. *Cum certum* 1, regarding seniority, and obedience, and the *Caeremoniale Episcoporum*, lib. 1, Cap. XXXI, n. 15, and other authorities, considered that precedence was entirely due to him over the other recently consecrated bishops, even if they held older positions within the comprovincial see. Meanwhile, the Synod, having been concluded peacefully, referred the dispute to the Most Holy Pope Pius IX, and, at his command, it was submitted to judgment by the Sacred Roman Congregation. After hearing both sides in writing, and after a careful opin-

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ion was obtained from one of the Masters of the Apostolic Ceremonies, at the Ordinary Assemblies of this day held at *Vaticanum*, with the participation of the Most Eminent and Reverend Cardinal Constantino Patrizi, Bishop of *Albanum*, and Prefect of the Sacred Roman Congregation, the aforementioned dispute was thoroughly discussed and resolved. Therefore, considering the canons and other authorities cited by the Bishop of the Five Churches, which determine the precedence of orders among bishops and the time of ordination or consecration, and taking into account the discipline and practice of the Church, these should not be understood absolutely, but rather discretively, namely, that all other things being equal, those of the same rank should be considered; and furthermore, considering that a custom has existed from ancient times in the Kingdom of Hungary, which is clearly contrary to the interpretation of the Bishop of the Five Churches, it was declared: In the case in question, precedence belongs to the Bishop of the Five Churches according to the time he obtained the episcopal see of the Five Churches. (1) March 26, 1859. GENERAL DECREE FOR THE CITY AND THE WORLD. Since all the Archbishops and Bishops of *Hiberniae*, gathered in *Dublini* in the year 1854, humbly requested that the Most Holy Pope Pius IX would deign to elevate the feast of Saint Patrick, Bishop and Confessor, and Patron of *Hiberniae*, which is noted in the Roman Breviary with a semi-double rite on March 17, to a double rite for the entire Catholic Church; the Most Eminent and Reverend Fathers of the Sacred Council for the Propagation of the Christian Faith,

[*Latin ed. p. 626*]

626 At the meetings held in Appen on July 21st, it was decided to petition the Most Holy [Father] for a grace. This decision of the Sacred Council, since the Archbishop of Dublin had recently and earnestly requested it, was graciously received by His Holiness, who ordered that the feast of Saint Patrick, Bishop and Confessor, celebrated on March 17th, be observed throughout the Church with the lesser double rite, and that a decree be issued by the Sacred Congregation of Rites and promulgated. Notwithstanding any objections whatsoever. May 12, 1859. MILAN. The Statutes of the Chapter of the Metropolitan Church of Milan, first established by Saint Charles Borromeo, and subsequently revised and approved with the intervention of His Holiness Clement VIII, Pope, decree that, in the case of an Archbishop who is seriously hindered, the Divine Offices, which he ought solemnly to celebrate on certain days, shall be celebrated by the Archpriest, who holds the highest dignity; and in his absence or impediment, by the Primicerius [First Priest]; then by the Praepositus [Prefect]; and after him by the Dechanus [Dean]; and if all of these are hindered, by the Canon who, among the Canons, whom they call Ordinary, is the highest in rank after the dignitaries. Since the Very Reverend Charles Caccia, Canon and Primicerius, who holds the second highest dignity among the Pres-

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byters, was, a few years ago, appointed by the Apostolic See as the titular Bishop of Famagusta, and simultaneously as Auxiliary Bishop to the Most Reverend Bartholomew Romilli, Archbishop of Milan, he considered that, not by reason of his Primiceriate, but by reason of honor and obedience due to the most excellent Episcopal dignity and character, and especially by reason of his quality as Auxiliary Bishop, the aforementioned right to solemnly celebrate the Divine Offices for an Archbishop who is hindered, even superseding the highest dignity of the Chapter, belonged exclusively to him, as he has often done in practice, even in the presence and with the assistance of the Archbishop himself. In the month of April 1858, the Very Reverend Caesar Maria Pertusati, Canon and Archpriest, opposed this, and maintained that this right belonged to him above all others, even though other dignities, however important, might shine forth from the Chapter, both by reason of the very nature of his own highest dignity, or of the nature of the Chapter's rights, and also by reason of a special and positive provision in the Statutes, which have been in force and are still in force for a long series of years. And lest any prejudice be ever caused to himself or his successors on this account, he petitioned the Sacred Congregation of Rites, offering a written plea in which he especially emphasized the need to preserve the established order and structure of the Chapter's Constitutions, and proposed the following questions: I. If the Archbishop is absent or unwilling to celebrate the Divine Offices, does...

[*Latin ed. p. 627*]

APPENDICES concerning the Chapter, namely concerning its dignities in their respective order, from the Archpriest, or rather the Auxiliary Bishop, although the Canon is not endowed with the first dignity of the Chapter? I. In the Supplications, or the Feast of the Most Holy Body of Christ, or the Holy Nail, does the Auxiliary Bishop, a Canon, or the Chapter, and therefore the Archpriest, administer the Holy Eucharist and the sacred Nail, in the absence of the Archbishop? X. XII. 627. It is asked: Can the Auxiliary Bishop, a Canon, absent from the choir for the sake of such duties, repeatedly enjoy both the annual allowance and the daily distributions, and is it the right of the Chapter to admit him to the distributions, as mentioned above, or not? In order that the Holy Congregation might proceed to define these matters, all those concerned were desirous of being heard in writing through the General Vicar of Milan. And from this arose the following: I. The deductions of the Canon, the Primicerius, the titular Bishop from the Sacred Congregation, and other things which are properly prescribed, are not to be granted by the Auxiliary Bishop, or by the Archpriest? V. Do the funerals and exequies of Canons take place with the Canon, the Auxiliary Bishop, or rather the Archpriest, wearing the stole? V. Has the quality of Prefect of the Chapter and of the choir hitherto been conferred only on the first dignity of the

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Chapter, and is it to be considered diminished or removed, with respect to the canonical dignity of the Auxiliary Bishop? VI. The Auxiliary Bishop of Milan, with the title of Famagusta, receives annually the allowance granted to a Bishop, in order to exercise the functions of his office, assisting the Archbishop. The Most Reverend Cardinal Prospero Caterina, having all these things before him, and after previously requiring the opinion of the Masters of Ceremonies, and after the Apostolic provision letters were generally confirmed, together with the documents mentioned above, and others which were deemed appropriate, it was printed by the press, at the Ordinary Assemblies held at the Vatican, concerning the entire controversy, and the doubts were carefully examined, the rights and privileges of both parties were diligently discussed, and all deductions were considered in every respect.

[*Latin ed. p. 628*]

628 The matter was judged to require a unanimous response. Regarding I. Affirmative to the first part: negative to the second. Regarding II. Negative to the first part: affirmative to the second. Regarding III. Negative to the first part: affirmative to the second, provided that the existing custom is observed. Regarding IV. Negative to the first part: affirmative to the second. Regarding V. Negative. Regarding VI. To the Sacred Congregation of the Council. And thus, the same Sacred Congregation judged that the matter should be written down again, and that it should be preserved for the future. September 19, 1859. MESSANEN. Since the church attached to the monastery of the Order of Saint Clare in the town commonly called Castroreale, in the Diocese of Messanen, required repairs, it was necessary during the work to restore it internally in every respect; but in order to avoid the danger of excommunication, such restoration was carried out successively and in parts, so that the crosses were never moved from their proper places, except for two, which had to be placed elsewhere for reasons of symmetry, and no large part of the wall was ever stripped. However, doubts having arisen among the nuns as to whether the church had lost its consecration, they presented the entire matter to the Sacred Roman Congregation, adding humble prayers, so that it would deign to manifest its opinion. The Sacred Congregation, having heard for information and the vote of the Reverend and Most Reverend Cardinal Francis of Paula, Archbishop of Messanen, judged that it should respond and declare: In the case in question, the church does not require a new consecration. September 19, 1859. CADURCEN. The Vicar General of the Bishop of Cadurcen, wishing to know how the pastors of the same Diocese should act in the blessing of the baptismal font to be performed on Holy Saturday; in this case, because of the great distance of the parish from the Episcopal city, they can have the sacred oil, consecrated by the Bishop on the preceding Thursday at the Last Supper, readily available; they requested that the Sacred Congregation de-

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clare whether they should observe the Decree of April 12, 1755, in Lucana, regarding Question III, according to which the blessing of the font can be performed in this case without the sacred oils, by pouring them separately and after they have been received; or rather, should they observe another Decree in Oriolen, of September 23, 1837, in which it is prescribed that the blessing of the font should be celebrated in this case with the infusion of the sacred oils of the previous year? The Sacred Congregation judged that the last Decree of the Sacred Congregation in Oriolen, of September 23, 1837, should be observed. September 19, 1859. URBIS ET ORBIS. After the Most Holy Pope Pius IX, in the year 1854.

[*Latin ed. p. 629*]

x xii. The dogma concerning the Immaculate Conception of the Blessed Virgin Mary, which has been universally acclaimed by the Catholic world, solemnly proclaimed, the ancient piety of the faithful towards this most splendid privilege of the Mother of God, like a newly added flame, has so greatly intensified that they are deeply saddened when, on occasion, it must be postponed from its proper day, the tenth of December, to be celebrated on the second Sunday of Advent. Therefore, desiring to satisfy the common desires of the clergy and the faithful, and following what was decreed by the Sacred Congregation of Rites on July 20, 1748, concerning the feasts of the Purification and the Annunciation of the Blessed Virgin Mary, His Holiness has deigned to extend this provision also to the feast of the Conception, and has therefore ordered that in those years when the aforementioned feast coincides with the second Sunday of Advent, it shall be transferred to the second weekday immediately following, whatever feast of equal rank may occur on that day, provided it is not of a higher rank. This decree has been promulgated, and it is desired that it be added to the general rubrics of the Roman Calendar. Contrary opinions notwithstanding. May 24, 1860. S YR ACUSE. Graciously responding to the desires of the dignitaries and canons of the Metropolitan Church of Syracuse, the Most Holy Pope Pius IX, in the 629th year of his pontificate, through Apostolic Letters: Whereas, on March 11, 1850, the same privileges were already granted to them by my predecessor, Pope Pius VII, through Apostolic Letters, confirming the strength of the churches, on May 6, 1816 (subject to the tenor of those same Letters, and according to the provisions of the Constitution *Decet Romanos Pontifices*, IV Nonas Julias, 1823), and whereas, in addition to these, new privileges have been granted, allowing them the use of pontifical insignia in the manner of the Abbot of Moutis Cassini, namely, the faldstool with footstool, whether the Archbishop is present or absent, and the Archiepiscopal seat vacant, and the pastoral staff with its veil. However, some doubts have arisen concerning these privileges, both ancient and recent. And first, regarding the use of the pontifical insignia, which have recently been granted, the Most Reverend

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Archbishop informed the same dignitaries and canons that they should proceed in no other way than according to the general rules established by the aforementioned Constitution of Pius VII, *Decet Romanos Pontifices* (1), from which, in the use of these privileges, the consent of the Bishop and the intervention of the Chapter are entirely required. The dignitaries and canons maintain that they are not bound by this restrictive condition, and they contend that it has been removed by the words of the Apostolic Indult, which indefinitely permit the use of the granted insignia whenever they please. Therefore, on the part of these same dignitaries and canons,

(1) This Constitution is cited on page 569.

[*Latin ed. p. 630*]

630 APPENDIX XII: In order that it may be defined with certainty and immutability which of two opinions is more in accordance with the truth, a humble petition was presented on March 16, 1859, in Syracuse, from the Chapter, containing two questions, which follow, under numbers I and II, and with certain observations, which diligently seek to provoke a resolution consonant with their desires. Furthermore, with regard to the ancient concessions of Pius VI, the most important question concerns the extent of a certain general formula, by which the Chapter of Syracuse, among other things, is granted the right to use and enjoy, along with other honors, privileges, and adornments, which the Chapters of the Cathedral Churches of Catania, Messina, and Palermo then enjoyed, from which they believe that certain things are permitted to them, which they assert were in use among the aforementioned Chapters at that time, although it is not established that this was the case (since they did not attempt to reconcile it with the general rules and with the Decrees of the Congregation of Sacred Rites). Therefore, this matter was never brought before the aforementioned Sacred Congregation.

I. Whether, according to the aforementioned Apostolic Brief (of March 2, 1850), concerning the Constitution: "Decet Romanos Pontifices," which limits the times in which a Dignitary and Canon can pontifically celebrate in their own church, in other cities, with the permission of the Bishop and in the presence of the Chapter, or at any time they please in the aforementioned Metropolitan Church and other churches within the city of Syracuse, it can be interpreted by the Canons, that is, that pontifical ceremonies can be performed by them at any time, without the consent of the Bishop and without the intervention of the Chapter?

It was determined that this could not be, and that no favorable opinion was obtained from it, as was fitting.

Regarding these matters, the Archbishop of Syracuse presented to the Most Holy Lord letters on December 14, 1859, which the Dignitaries and Canons call "Consilia," to which some of them, from the Chapter Hall, on the 30th of the same month and year, added certain observations.

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And since, in the aforementioned letters and in the aforementioned observations, the following questions were raised:

II. Finally, are only the insignia granted, and not the rites, such as those of the Abbot of Monte Cassino, as mentioned above?

III. Should the Dignitaries and Canons of the Metropolitan Church of Syracuse be allowed to continue using the "uso dei Coturni e dei Calzari dì seta" (the use of red socks and silk shoes), as also used by Deacons in solemn Masses, not only as a confirmation of the ancient privileges under the transparent veils of the same, but also as an extension, and is this demanded with fervent prayers?

From this, other questions arose, which are read below, under numbers III and IV.

Therefore, in order to resolve all questions, whether concerning ancient or new concessions, the following four questions were presented to the Congregation of Sacred Rites.

[*Latin ed. p. 631*]

XII. Of Cassocks and Scarves: and of the triple blessing with the Most Holy Sacrament and in the solemn Mass, because they believe that such usages derive from a general concession of goods, privileges, and ornaments, similar to those of the Chapters of Catania, Messana, and Palermo. I. And how can the use of the pectoral cross, which is granted only with pontifical insignia, also be permitted, not indeed to individuals, but to those participating chapterly in the Divine Psalmody, on those days when the Bishop can use the pallium, in the two processions that take place in the month of December, coinciding with the feast of the Patron, in the processions of the Most Holy Body of Christ from the feast itself to the entire Octave inclusive, in the procession of Saint Sebastian in the month of January: and in the Rogation processions? Furthermore, the Sacred Ritual Congregation, after carefully considering a proposal from one of the Masters of Ceremonies, decided to respond as follows: According to the opinion of the Master of Ceremonies, namely: I. Regarding the first part, affirmatively, in the following manner: namely, that Dignitaries and Canons may use the pontifical insignia granted to them whenever they wish, both in the Metropolitan Church and in other churches of the city of Syracuse, always with the consent of the Archbishop and the assistance of the Chapter. 631 Regarding the second part, as provided in the first. II. Only the insignia according to the terms of the concession. III. The Constitution "Decet Romanos Pontifices" must be observed, and meanwhile, they should abstain from this usage until a favorable judgment has been obtained from the Sacred Congregation regarding the existence of the asserted privileges, of which documents will be presented to the Sacred Congregation. IV. It is not advisable. And thus, the Sacred Congregation responded and ordered that it be observed. On March 24, 1860. ALGAREN. Since in the Cathedral Church of Algaren,

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the custom has prevailed from ancient times that Canons, while assisting the Bishop in his pontifical vestments, retain a skullcap on their heads, the Archpriest of the same Church, doubting whether such a custom can be maintained under the pretext of immemorial custom, requested that the following questions be declared by this Sacred Ritual Congregation: I. Can the Canons of the Cathedral Church of Algaren wear a skullcap on their heads according to immemorial custom, while they, wearing the sacred vestments, precede the Bishop on Thursday of the Holy Week, who is prepared in his pontifical vestments, as they proceed from the sacristy to the main altar to perform the divine mysteries in the order of the procession? II. Can the Canons themselves use a skullcap by virtue of such a custom, while they proceed to the aforementioned main altar?

[*Latin ed. p. 632*]

632 APPENDIX XII. Do those who arrive stand in a circle before the same Bishop while he celebrates the entrance of the Mass? I.

Do they [those who are present] need to remove their caps when they put on the sacred vestments, even if the Bishop is not present?

The Sacred Congregation judged:

To I. No.

To II. No.

To III. If the Bishop is not present at all, no.

And thus it was written and ordered to be observed.

March 24, 1860.

BEVERLACEN.

The Most Reverend John Briggs, Bishop of Beverlacen, humbly requested that the following be clarified by the Sacred Congregation.

I. Should the Office of Vigil of the Saints Apostles Simon and Jude be performed on the feast day of the Patronage of the Blessed Virgin Mary, with a double rite of the First Class, including the Octave, on the last Sunday of October, together with the feast of the Saints Apostles Simon and Jude, which is transferred according to the rubrics of those same Apostles to the day before, that is, October 27th, as if the feast of those Apostles had not been transferred at all?

II. And, to the extent that the answer to the first question is negative, should the votive Office for the Immaculate Conception of the Blessed Virgin Mary be performed on that day, October 27th, for Saturdays within the year, except for Vigils?

The Sacred Congregation judged that the following should be answered:

To I. Affirmative.

To II. As provided in the preceding.

And thus it was written and ordered to be observed.

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March 24, 1860.

BARCINONEN.

Regarding the Cathedral Church of Barc, which, by order of the Supreme Pontiff Alexander VII, was subjected to an Apostolic Visitation in the year 1661, the canons of that church, invoking the authority of this Visitation, contend that they cannot, by order of the Bishop, change or reform their ancient customs, which are contrary to the rubrics and the decrees of the Congregation of Sacred Rites.

In the first place, they refer to the custom, which, they say, was in use before the aforementioned Visitation, and which was neither expressly nor tacitly disapproved of by it; so that the Conventual Mass was then sung only by the Chapter when no anniversaries were to be celebrated, otherwise it was said by the appointed chaplains in the chapel of Saint Eulalia, located under the main altar, while the Prime was sung in the choir, so that both the anniversaries and the Conventual Mass, if no anniversaries were present, were celebrated by the Chapter after the Non, and that the weekday Masses, whenever they occurred, were not celebrated by the Chapter in the choir, but by the appointed chaplains in the aforementioned chapel of Saint Eulalia.

They also refer to the custom in force in the same Cathedral, according to which it was customary for the Bishop, when celebrating a Pontifical Mass, not to intone the Terce, but to begin Mass after the Non; and that two deacons assisting were prescribed by the Ceremonial.

[*Latin ed. p. 633*]

XII. points it does not have; it has, on the contrary, in the place of one priest, two assisting priests, namely the Dean and the senior Canon, after the aforementioned dignities, which are therefore suspected to be excluded because these dignities were not originally part of the Chapter. Furthermore, it is noted that in the solemn Mass, the celebrant reads the Gospel in the Epistle side, while the subdeacon chants the Epistle, whereby the subdeacon does not at all assist in the chanting of the Gospel; nor does he here, but the deacon offers the book to be kissed by the celebrant, and that indeed after the intonation of the *Symbolum*, or ”Dominus vobiscum”; that the homily, among the solemnities of the Mass, is not given immediately after the Gospel, but after the Unification of the offerings; and that peace is not brought by the subdeacon, but by the deacon to the choir. Now, if this Bishop of Barchiuonen wishes to remove all these things, which are contrary to the rubrics, he puts forward the following questions to be presented to the Sacred Congregation concerning the aforementioned sacred rites.

I. Whether the conventual Mass should be sung daily by the Chapter in the choir; or rather, whether the ancient custom should be maintained, as

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mentioned above in the Apostolic Constitution of the year 1661, which was neither approved nor disapproved, but passed over in silence?

II. Whether the stipend for the chaplains celebrating the conventual Mass should be taken from the revenues of the Canons, or rather from the revenues of the Sacristy or Fabric?

III. Whether the custom of singing both the Mass of the feast day and the Anniversaries after the Nones can be maintained; or rather, whether it is necessary to obey the rubrics which prescribe that Anniversaries should be celebrated after Prime, the Mass of the feast day after Terce, and the weekday Mass after Sext or None?

IV. Assuming that, according to the latest Concordat, all the churches in Hispaniae have been enriched with an equal number of dignities, Canons, and Masters, whether there is still a place for the Decree of June 1, 1603, in one of the days of Hispaniae, concerning the memorable and laudable customs which have not been abolished by the Ceremonial of Bishops, which Decree seems to be based on the variety of ministers then existing in Hispaniae; or rather, whether, with the loss of ancient customs, the Ceremonial of Bishops should be observed?

V. In order to prove the custom of two priests assisting, whether this office should be performed by the two most distinguished dignitaries of the Chapter, or rather by the Dean and the senior of the Canons, as when the dignities were not part of the Chapter?

VI. Whether the customs described above, concerning the solemn Mass, and which have been observed from ancient times, can be maintained?

VII. Whether, in reforming the abuses in his Cathedral Church, the Bishop can conform himself to the practice of the Metropolitan Church?

[*Latin ed. p. 634*]

634. APPENDIX XII. In the diocese of Tarragona, are all things pertaining to the divine worship performed properly, perfectly, and according to the rubrics? The Sacred Congregation decided to respond: To I. Affirmative to the first part, negative to the second. To II. Provision made in the preceding. To III. Negative to the first part, affirmative to the second. To IV and V. To be deferred, and someone from the Masters of the Ceremonies of the Apostolic See should write. To VI. The rubrics of the Roman Missal must be strictly observed, notwithstanding any contrary custom, or rather, corruption. To VII. Provision made in the preceding. March 24, 1860. MENEVEN AND NEWPORTEN. Since, by decree of the Sacred Congregation for the Propagation of the Faith, Saint David, the Confessor, is the principal patron of the diocese of Meneven and Newporten, and his feast day, which falls on March 1st, is celebrated there with a double rite of the first class, and outside of Lent with its Octave, it follows that in those years when Ash Wednesday falls after the Octave of March, as happened in the previous

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year, 1859, the Office for the day of the Octave of the feast should be recited on that same day. Since the feast of Saint Felix, the Confessor, with a minor double rite, falls on the Octave of March for all of England, and it rarely happens that this day precedes the Fast of Lent, the Ordinary of Meneven and Newporten petitioned the Sacred Congregation: Should a blank day be left in the calendar of that diocese for the Octave of Saint David, even though it may rarely be celebrated, and should it be permanently transferred to the first free day after the feast of Saint Felix? The Sacred Congregation decided to respond: Affirmative. And it ordered that it be observed in this way. March 24, 1860. MELITEN. The Most Reverend Dom Caietan Pace Forno, Archbishop and Bishop of Meliten, presented to this Holy See a statement that the Chapter of his Cathedral had long maintained the custom of using a simple mitre in the celebration of certain sacred functions. In the year 1850, on December 6th, he obtained, through Apostolic letters in the form of a Brief, first, that a Canon celebrating in any church of the diocese, with the express permission of the Ordinary Bishop given in writing, might use the simple mitre, even in the absence of the Chapter, and second, that a Canon celebrating on solemn days in the presence of the Chapter might also wear, in addition to the simple mitre, the dalmatic and tunic, the chirothecas, the sandals, and might use the maniple, the cope, and the stall. Since nothing is stated in the Brief of concession regarding whether a Canon, with the assistance of the Ordinary Bishop, may use the granted insignia; hence, the Orator humbly petitioned the Sacred Congregation to declare the following doubt: Whether the dignity of a Canon of the Cathedral Church of Me-

[*Latin ed. p. 635*]

XII. Regarding the wearing of the mitre, on solemn days, by a priest who is not a bishop, with the bishop present and assisting, is it permissible for him to use the insignia granted to him in the year 1850, or rather, should he, in the presence of the bishop, only use the simple mitre previously granted to him? The Sacred Congregation judged that a response should be given: According to the terms of the grant, the presence of the bishop in this case does not in any way prevent the Dignitary or Canon from using the pontifical insignia, provided that the terms of the same grant are observed. And thus it was written, and it was ordered to be observed. March 24, 1860.

MILITEN. Since the feast of the Precious Blood of Our Lord Jesus Christ, of the second class, is fixed for the first Sunday of July this year, and coincides with the first vespers with the second vespers of the commemoration of Saint Paul the Apostle, and therefore the complete vespers must be celebrated on June 30, according to the rubrics, either of the Precious Blood with the commemoration of the preceding feast, or of Saint Paul, the Most Reverend Philip Mincione, Bishop of Militen, requested that the Holy Congregation declare: whether this commemoration should be exclusive of

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Saint Paul the Apostle, or whether it should include both Apostles, Peter and Paul, as indicated in the Breviary. The Sacred Congregation judged that a response should be given: The commemoration should be of both Apostles together, as indicated in the Breviary. And thus it was written, and it was ordered to be observed. March 24, 1860.

635. ORDER OF MINOR FRIARS OF SAINT FRANCIS OF ASSISI (CAPUCHINS). While the Sacred Congregation for Rites in the year 1854 was examining certain doubts proposed by the Kalendarist of the Order of Minor Friars of Saint Francis of Assisi of the Province of Genoa, after the Most Reverend General Procurator had reviewed the doubts themselves, regarding the following doubt: "Each year, in our church of Saint Catherine of Fle, the octave of the feast of the patron saint falls on the fifth Sunday after Easter, to which the feast of the Dedication of the Patriarchal Church of Assisi, assigned with a major double rite, is assigned in the Capuchin Calendar. Since, however, the Office of the aforementioned Dedication is always impeded in our church due to this octave, should the Office of the Dedication be permanently assigned to another free day, or rather, should it be considered as being transferred each year?" It judged that a response should be given: "The Dedication of the Patriarchal Church of Assisi should not be transferred, since it is a feast of the entire Franciscan Order; however, the commemoration of the octave of Saint Catherine may be permitted." However, the current Superior of the Capuchin family of Genoa, seeing this declaration of the Sacred Congregation, considers it to be an impediment to the requests of the Genoese priests to celebrate the Mass of Saint Catherine in their own church on the octave of the feast, and, in the same church, to...

[*Latin ed. p. 636*]

636 APPENDIX X II. Whether, if all the parts of the Holy Sacrifice have been completed, the indult granted on April 30, 1796, by the Holy See, for the celebration of the Office on that day, can be revoked, and whether another Office will be celebrated on that day?

1. Among the Capuchins of Genoa, the custom of monastic flagellation exists in that church, which can be performed on the fifth day after Easter by those who perform it in the choir, as on the octave of Saint Catherine, and transferred to a more convenient location. In such an exercise, modesty requires that, on some day following the Dedication of the Patriarchal Church of Assisi, the entire community, with all their strength, flagellate themselves.

2. Furthermore, it was requested that the Capuchin Order be allowed to recite the Office on March 22, so that the light of the Blessed Sacrament may not illuminate the choir in the upper part, due to the striking of the bell during the Mass of Commemoration of Saint Catherine, which occurs both in the Diocesan Calendar with a double rite, and in the Roman Martyrology

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with the faculty of being transferred to the first free day of the Office of Saint Benvenuto. However, since not all in the community feel that this practice is permissible, the following is asked: whether the extinguishing of the light of the Blessed Sacrament is a suitable substitute for the darkness required for the Religious who are flagellating themselves in the choir, by means of another light placed outside the altar. The Holy Congregation considered it necessary to write about this.

Regarding the first request, it was decided to maintain the Decree of April 8, 1854, concerning the third point (1).

Regarding point 11: No.

Regarding the first question, concerning the first part, the answer is negative, according to the Decree of December 19, 1829, in Florence, concerning the first question (1).

Regarding the second question:

(i) In the aforementioned Florence, the following was proposed: "Whether, during the administration of the Viaticum, especially in hospices, it is permissible to recite the Psalm *Miserere* in the interim, while moving away from the altar to the bedside of the sick, as is usually done outside of Mass?" To this, the Holy Congregation responded: negatively, regarding the recitation of the Psalm *Miserere*. Furthermore, it should be noted that, if the celebrant is celebrating in the infirmary, he may not be allowed to carry the Holy Vessels after Communion, and to proceed to the cells of the sick, in order to give them Communion, or even to reserve the Viaticum, so that he may administer it after Mass? And, to the extent that this is affirmative for the second part, what should be done?

[*Latin ed. p. 637*]

APPENDIX X II. The affirmative part and fragments shall be placed in the pyx which is kept in the sacristy. To XI. Affirmative. And thus it was written, and it was ordered to be observed. On March 24, 1860. WARMIEN. Recently, the Most Reverend Bishop of Warmien declared throughout that entire Diocese that the Apostle Saint Andrew is to be invoked as the principal patron before God, and that his feast day is to be solemnly celebrated on its proper day, namely November 30th, under the rite of the First Class, with an octave, and under the double precept of attending the Holy Sacrifice, and of abstaining from servile work. Since, moreover, certain parishes, which were formerly subject to the Dioceses of Culm and Pomesania, were permanently united to the Diocese of Warmien by the Bull "De salute animarum," promulgated in the year 1821 by the Supreme Pontiff Pius VII; and since each of these Dioceses has its own particular and distinct patron: namely, Saint Lawrence the Martyr for the Diocese of Culm, and Saint John the Apostle and Evangelist for the Diocese of Pomesania; the same Most Reverend Bishop petitioned the Apostolic See; whether in these aforemen-

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tioned parishes the feast of the Apostle Saint Andrew is to be observed with solemnity and obligation, and in the rest of the Diocese of Warmien; and whether, for these same parishes, the obligation of observing the feasts of the patrons of the Dioceses of Culm and Pomesania, to which they were formerly subject, has ceased. The Holy Congregation deemed it fitting to respond: Affirmative in all things. And thus it was written, and it was ordered to be observed. On March 24, 1860. APOSTOLIC VICARIATE OF PONDICHERI. After receiving the Decree of the Holy Congregation of July 9, 1859, the Most Reverend Monsignor Clemens Bonnand, Bishop of Drusipara, Apostolic Vicar of Pondicherry, requested that it be declared regarding the Octave of Saint Francis Xavier, the Confessor, instituted by the same Holy Father Benedict XIV as the principal patron and protector of the Orient, concerning the doubt then proposed in number two: I. Whether the Octave of Saint Francis Xavier, whose feast is celebrated with the rite of the First Class, is more important than the Octave of the Immaculate Conception, concerning which the feast is celebrated with the rite of the Second Class, and therefore, whether the Octave of Saint Francis Xavier should be recited on December 9th, with the commemoration of the Octave of the Immaculate Conception? II. And whether, affirmatively, what lessons should be recited on this day, December 9th, on the seventh day within the Octave, both in the Second and in the Third Nocturn? The Holy Congregation deemed it fitting to respond. Regarding I. Affirmative. Concerning the administration of the Viaticum within the Mass, if it is lost to view, it is not permitted.

[*Latin ed. p. 638*]

638 APPENDIX x xii. Regarding the Office. The lessons for the second nocturn of July 9th will be those indicated by the Octave of the Feast of the Visitation, which are found in the Roman Breviary for the 7th day after the Octave of July, and which should contain the words of the holy Confessor, not of a Pontiff: this is to be observed on the third day of the octave. The Roman Breviary, however, will recite them again. The lessons from Tours, compiled in the year 1853, which are assigned for the third day after the octave of St. Francis Xavier by the Province of the Society of Jesus, should be recited only on that day: as in the feasts of the Blessed Virgin Mary, everything should be as prescribed by the Sacred Congregation of Rites, which has declared and commanded that this be observed, and has ordered that credence be given to whichever of the two editions is followed. VICARIATE APOSTOLIC OF THE WESTERN DISTRICT OF SCOTLAND. In the Western District of Scotland, a new church has recently been built in Montis Pessulan, and its windows, made of colored glass, depict images of men who have attained sanctity or martyrdom, but never among the Blessed are those recognized by the Apostolic See as Saints. Observing this, the Vicar of the District considered it his duty to request from the Sacred

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Congregation a declaration regarding the following question: Whether, in the feast of St. Irenaeus, the lessons of the first nocturn should be taken from the Scriptures, or rather from the Epistle of St. Paul to Timothy, as they are found in the Appendix to the Roman Breviary? The Sacred Congregation responded, writing: In the case of "Your Holy Confession," it is understood. On August 7, 1860. In the District of Scotland, the Director of the Diocesan Calendar of Montis Pessulan requested that the Sacred Congregation declare whether, in the feast of St. Irenaeus, the lessons of the first nocturn should be taken from the Scriptures, or rather from the Epistle of St. Paul to Timothy, as they are found in the Appendix to the Roman Breviary. The Sacred Congregation responded: negatively. And it commanded that this be observed. On March 24, 1860. In Carcassonne, the Master of Ceremonies of the Cathedral Church of Carcassonne, presenting the Roman Breviary published in Mechlin in the year 1856, on the feast of the miracles of the Blessed Virgin, noted that: In the Cathedral Church of Nicotera, some controversies have arisen concerning the Pontifical Functions. To define these, the Most Reverend Philip De Simone, Bishop of Nicotera and Tropia, humbly requested the Sacred Congregation to provide a solution to the following questions:

[*Latin ed. p. 639*]

IX, XII, I. Whether, according to the established custom among Pontifical Functions, which pertain to the highest dignity when the Bishop is absent or hindered, the commemoration of all the faithful departed, and the Office of the Feria V, on Friday, should also be included?

II. Whether the aforementioned Pontifical Functions are only those mentioned in chapters I and 34 of Book II of the *Caeremoniales Episcoporum*, as clearly deduced from the declarations of the Sacred Congregation of Rites of April 7, 1696, and June 22, 1697, in Abellinum, and of December 7, 1771, in Hydruntina, paragraph 9; or rather, whether they are all those specifically designated in the decree of Adrian of December 3, 1672? The Sacred Congregation decided that this matter should be reconsidered.

I. Negative.

II. Affirmative regarding the first part; negative regarding the second part. August 1, 1860. *MISSALE ROMANUM URBIS ET ORBIS*.

Since two new Roman Missals were to be published, one from the printing press of the Sacred Congregation of Propaganda Fide, and the other from the printing press of Joseph Salvucci, Secretary attached to the Sacred Congregation of Rites, and in accordance with the general decree regarding the edition of liturgical books of April 26, 1834, he endeavored with all his might to ensure that they were completely in agreement with the archetypes of the editions of Clement VIII and Urban VIII, as well as with another edition most faithfully reproduced from those, printed by the Sacred Congregation of Propaganda Fide in the year 1714, for which

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the aforementioned Sacred Congregation of Rites issued two decrees on September 25, 1706, and September 13, 1714, concerning its embellishment.

In order that the aforementioned Secretary might achieve this proposed goal, he enlisted the assistance of men no less diligent than those endowed with knowledge of the rubrics, and he took care to compare all those matters in which any doubt might arise, not only with the aforementioned sources, but also, whenever it seemed necessary, with four other editions of the highest reputation: those published in Rome in the year 1643 by Bernardino Tani, and in the year 1677 by the Printing Press of the Reverend Apostolic Camera; and those published in Venice in the year 1640 by Peter Ciera, and in the year 1654 by Francis Boba.

Furthermore, he consulted authentic decrees of the Sacred Congregation of Rites, and from these, he derived the safest standard for making corrections, especially in the rubrics, or for removing alterations or additions made by printers in more recent editions of the Roman Missal. However, since in this examination, certain matters of greater importance came to his attention, he submitted these doubts for discussion and resolution to the Congregation of Rites, having been appointed for this purpose by His Holiness, Pope Pius IX.

These matters were discussed on September 25, 1860, in the presence of the Most Eminent and Reverend Cardinals.

[*Latin ed. p. 640*]

64*0 Regarding the questions presented to the Most Reverend Constantino Patrizi, Prefect of the Congregation for Sacred Rites, after mature deliberation, the following answers are given:

Question I. It is certain that in the prayer "Nobis quoque peccatoribus" within the Canon of the Mass, only these three words must be said aloud, and this is clearly indicated both in the general rubrics, Chapter XV, No. 1, and in the Rites to be Observed in the Celebration of Mass, Chapter X, No. 3, where it is prescribed: "When he says (the priest) NOBIS QUOQUE PECCATORIBUS, he raises his voice somewhat, AND CONTINUES SECRETLY TO HIS SERVANTS, etc." However, since a clear distinction is desired between the words to be said aloud and those to be said secretly, and the Rubric of the Order of Mass absolutely prescribes that the priest, with his right hand striking his breast, says: "Nobis quoque peccatoribus, famulis tuis, etc., WITH A RAISED VOICE," the question is asked: Can a brief note be added in parentheses after the words: "nobis quoque peccatoribus," such as: "And continues secretly?" The Congregation responds: It is not advisable.

II. Neither in the general rubrics, nor in the Rites for celebrating Mass, nor in the Order of Mass, is there any indication that the priest can know in which part of the Missal the Gospel of Saint John, "In the beginning

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was the Word," is to be found. This silence is common to all editions of the Roman Missal, from the 9th to the 12th, including the archetypes of Clement VIII and Urban VIII. However, since it may seem opportune in some way to indicate this in the Order of Mass, either by referring the priest by a simple citation to the third Mass of the Nativity of the Lord, where the aforementioned Gospel is found, or by appending the Gospel itself in full at the end of the Order of Mass, as is customary in the pontifical Canon of the Mass, the question is asked: In the Missals to be published soon, how can the aforementioned Gospel be included? The answer is: Nothing should be changed.

III. Since, from the year 1806, with the death of Francis II, Emperor of Austria, the Roman Empire ceased to exist, the prayers for the Roman Emperor, which are assigned for Friday VI, in the Mass of the Pre-sanctified, and for Holy Saturday, in the final part of the Paschal Preface, are no longer to be said today, as expressly declared by the Sacred Congregation of Rites in Sarsinaten on August 3, 1839, and in Mechlin on December 7, 1844, to the Very Reverend. The question is therefore asked:

1. Should these prayers be removed in the new editions of the Roman Missal? Answer: No. And to the extent that the answer is no,

2. Should a brief rubric be added to each prayer, stating that they should be omitted today? Answer: No. And to the extent that the answer is no,

3. Should at least such a note be added?

[*Latin ed. p. 641*]

IX. XII. Should the beginning of the Missal, after the general rubrics, include decrees from the Congregation of Sacred Rites? R. Affirmative.

I. V. All editions of the Roman Missal published after Urban VIII, with the exception of the most recent ones, contain the following rubric regarding the solemnity of the Body of Christ: "Within the Octave, this same Mass is said, and it is not said for any saint, unless it is a Double feast, nor for a feast that is transferred." This rubric perfectly agrees with the parallel rubric in the Roman Breviary before the Office of the Body of Christ, which reads: "Within the Octave, it is not said for any feast unless it is a Double feast... nor for a Double feast that is transferred." However, in the most recent editions, the following words have been added to the first rubric, at private discretion: "unless it is of the first or second class." This has resulted in the perfect agreement that once existed between the two rubrics being completely lost. Furthermore, since the words "unless it is of the first or second class" appear to be consistent with declarations made in certain particular decrees by the Sacred Rites Congregation, especially in Lisbon on May 30, 1699, the question arises: Should the words recently added to the Missal rubric, "unless it is of the first or second class," be removed? R. Negative, and should these words be added in new editions of the Roman

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Breviary? Acts, Vol. III, p. 36, 64!

V. In the Feast of the Purification of the Blessed Virgin Mary, the following rubric is read before the Mass: "If this feast falls on a Sunday of Septuagesima, Sexagesima, or Quinquagesima, only the blessing and distribution of candles are performed, and a procession is held, and Mass is said for the Sunday. The Mass of the feast is transferred to the following day." There could be no doubt as to what is meant by "the following day" in this rubric, unless the third day of February was occupied only by a simple feast. However, after many dioceses began to observe a Double or semi-Double feast on that day, it was not without reason that doubt arose as to whether "the following day" referred to the third day of February itself, even though it was a feast day, or rather to the first day after it that was free from a Double or semi-Double feast. To resolve this doubt, the Sacred Rites Congregation issued a general decree in Rome and the world on July 22, 1748, in which it stated: "When such a circumstance occurs, the Office of the Purification must be transferred to the second feria immediately following, whatever feast of equal or lower rank may occur on that day. And it is to be observed that, when the Feast of the Annunciation of the Blessed Virgin Mary occurs on a privileged Sunday, the Office of the Annunciation should be transferred to the second feria after the Sunday in Albis. And this decree applies to all."

[*Latin ed. p. 642*]

642 APPEN was founded in Rome in the year 1812. The following should be added to the rubrics before the Communion: "This rubric concludes." Therefore, since this decree was added in recent editions, the following should also be added to the general rubrics, taken verbatim from the *Caeremoniale Episcoporum*, book 2, chapter 16, number 19: "If the rubrics in the aforementioned Missal are to be changed to the following day, and if the Mass is on a Sunday, should the words 'in the following second day' be changed to 'immediately after the following day,' whatever the reason, in order that the higher rite may be observed, lest it be observed on a feast day that happens to fall on that day? The addition is well suited to serve this purpose, and the words with which it was conceived should have the force of law." Affirmative.

I. For the same reason, it is asked: "Should a similar rubric be added to the Annunciation of the Blessed Virgin Mary before the Mass, in which the privilege of this feast is announced, in accordance with the form of the decree of the City and the World of July 20, 1866?" R. Affirmative.

II. However, since this new rubric is made solely at private discretion, should it be added, or rather suppressed, in accordance with the aforementioned decree of the City and the World? R. Affirmative for the first part, and Affirmative for the second.

III. Two feasts of the Seven Sorrows of the Blessed Virgin Mary, of which

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one is affixed to the sixth day of the week in the Roman Calendar, and the other to the third Sunday of September, are governed as to the manner of their translation not by the general rubrics of the Roman Breviary and Missal, but by their own laws, which are entirely contained within the aforementioned rubrics. It is asked: "Should a similar rubric be added to this feast?" R. Provided that in the first of these feasts it is stipulated that, if it cannot be celebrated on the sixth day after Easter, or on the following Saturday, it should be omitted in that year, and not transferred to the Paschal time." Thus defined the Sacred Congregation of Rites.

IV. In all ancient editions of the Roman Missal, including those of Clement VIII and Urban VIII, immediately before the Mass of the Purification of the Blessed Virgin Mary, it is read: "The procession ends..." in Corduba, on September 3, 1672.

V. And again, IV. Regarding the second of these feasts, two decrees of the City and the World exist from May 24th.

[*Latin ed. p. 643*]

648 K XII. Responsa of the 18th of September, 1814, and the 19th of August, 1817, in which those rules concerning the transfer of feasts from one day to another are clearly stated. Since it seems opportune for the instruction of priests, it is asked: Should a special rubric be added before the Mass of each feast to indicate the manner in which the feast is to be transferred, in accordance with the aforementioned decrees? R. Affirmative. X. As was noted in the preceding question, and also concerning the feast of the Precious Blood, which falls on the first day of July, the Decree of the City and the World, given at Caieta on the 10th of August, 1849, asks: Should a special rubric be added before the Mass of this feast, taken from the very words of the aforementioned decree? R. Affirmative. XI. After the Sacred Congregation of Rites, in Rome, on the 16th of February, 1754, defined how the Mass of the Invention of the Holy Cross should be ordered, if it should happen to be transferred after Pentecost, a special rubric began to be added to the body of the Missal for the third day of May, declaring this, but not in the very words of the decree, but in quite different terms, although in substance consistent with the decree. Although this rubric seems very useful, it is nevertheless asked: 1. Should it be retained? R. Affirmative. And furthermore, affirmative. 2. Should it be reformed, preserving the laudable expressions of the decree? R. Affirmative. XII. After the Decree of the City and the World of the 10th of September, 1847, there can be no doubt that the Mass of the Patronage of Saint Joseph, Spouse of the Blessed Virgin Mary, should be included in the body of the Missal on a Sunday. But since this Mass is ordered for the Paschal time, it is asked: How should the Mass of the Patronage of Saint Joseph be ordered in the case of a transfer after Pentecost? R. The Mass of the Patronage of Saint Joseph should be read after Pentecost, as it is ordered for the Paschal time, except for the Alleluia,

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and the Gradual should be taken from the Mass of the 19th of March, with the proper verse: "Make us innocent, Joseph, etc.," and with three Alleluias arranged according to the rubrics. XIII. In the Mass of Saint Lawrence, the Martyr, on the 10th of August, after the Gospel, it is said: "The Creed is not said unless in the proper Mass, or unless it is a Sunday." However, in the Mass of the Octave, which falls within the Octave of the Assumption of the Blessed Virgin Mary, it is absolutely stated that the Creed is said. Now, in a completely similar case, namely, on the Nativity of Saint John the Baptist, where the Creed is not said unless it is a Sunday, the rubric relating to the Octave expressly states: "The Creed is said BECAUSE OF THE OCTAVE OF THE HOLY APOSTLES, PETER AND PAUL." It is asked:

[*Latin ed. p. 644*]

644. QUESTION: Can this rubric be added even on the octave of Saint Lawrence: "Is it said that the Creed is recited even outside the proper feast day because of the octave of the Assumption of the Blessed Virgin Mary?" ANSWER: No.

XV. After the Mass of the Holy Apostles Simon and Jude on October 28th, more recent editions of the Roman Missal contain this rubric, which is unknown to the edition of the Sacred Congregation of Propaganda Fide of the year 1711 and to other older editions: "If, on the vigil of All Saints, a Mass for a feast of the second class occurs, then the third Collect should be *A CUNCTIS*, and not of the Holy Spirit." This rubric is certainly consistent with a particular decree of the Congregation of Sacred Rites to the Order of Capuchins on June 21, 1710, section II. Nevertheless, since the same rubric is absent, as mentioned, in all older editions, the question arises: Should this rubric be retained? ANSWER: No.

XV. In the decree *Novum Missale Urbis et Orbis* of September 25, 1706, section X, when it was asked: "Whether, when the dedication of the basilicas of the Savior and of Saint Peter occurs within the octave of the dedication of other churches, other collects, or prayers, should be assigned, or whether the commemoration should be omitted?" The Sacred Congregation of Rites responded: "A different common prayer should be taken for the commemoration, namely: 'O God, who invisibly, etc.' and this decree should be placed at the beginning of the Missal." From this clause added to the response, everyone understands that it was not the intention of the Sacred Congregation that this response be inserted in the manner of a rubric within the body of the Missal, but only that it be placed at the beginning of the Missal, after the general rubrics, among the decrees of the same Sacred Congregation. Indeed, in the Missal published in the year 1714 by the Sacred Congregation of Propaganda Fide, for which a decree had been firmly issued, no particular rubric was inserted regarding the alteration of the prayers for the Mass on the anniversary of the dedication of a church; and although it is true that, at the beginning of the

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Missal (perhaps due to oversight), no note on this matter was placed, it is clear that the editors refrained from adding any new rubric. But what the aforementioned editors considered permissible, more recent printers have considered it permissible to do, adding at their own discretion this rubric in the aforementioned Mass, after the prayers assigned for the day of the dedication: "These prayers should be recited whenever more than one commemoration of the anniversary of the dedication of the church occurs." Given these circumstances, the question arises: Should we strictly adhere to the aforementioned decree of the Sacred Congregation of Rites, or, without obstructing it in any way, can the aforementioned rubric be retained? ANSWER: Affirmative to the first part, negative to the second.

XVI. Missals published to date: After the Postcommunion in the collation Sa-

[*Latin ed. p. 645*]

x xii. The rubrics for certain Orders conclude with "Through the Lord, etc." Although your words of redemption demonstrate that the prayer is directed to the Son of God, and therefore, according to the rubrics, it should conclude with "Who lives, etc." Certainly, in a completely similar case, namely, in the Postcommunion of the daily Mass for the Dead, which reads as follows: "May the souls of Your servants and handmaids, whom we commemorate, rest in peace, and may they be delivered from all sins, and may they partake of Your redemption." All Missals place the conclusion "Who lives, etc." Therefore, the question arises: how should the Postcommunion be concluded in the Collation of the Sacred Orders?

R. The conclusion to be used is: "Who lives, etc."

XVII. To remove all doubt regarding the interpretation of the rubric that is read before the Mass for the Bridegroom and Bride, the Sacred Congregation of Rites, with the approval of the Most Holy Pope Pius VI, declared by Decree of the City and the World on January 7, 1784: "In the celebration of marriages that takes place outside of a Sunday, or another holy day of precept, or on a day on which a Double of the first or second class occurs, even if the Office and Mass are celebrated for the Double of the year, whether major or minor, the Mass for the Bridegroom and Bride should be said at the end of the Mass, after the other special votives; on Sundays, and on other holy days of precept, and on Doubles of the first and second class, the Mass of the day should be said with the commemoration of the Mass for the Bridegroom and Bride."

However, since it is publicly beneficial that this Decree should not be ignored by Parish Priests, and other Priests legitimately deputed to bless marriages, the following is asked:

1. Can a new rubric be created from the same Decree, which would be added in the body of the Missal before the Mass for the Bridegroom and

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Bride?

R. Affirmative, according to the form of the Decree. And, to the extent that it is negative, 2. Can at least the Decree itself be added at the beginning of the Missal, after the general rubrics?

R. This has been provided for in the first question.

XVIII. In the Mass of the Immaculate Heart of the Blessed Virgin Mary, approved by the Sacred Congregation of Rites on July 21, 1855, and to be inserted in the Roman Missal in the Appendix for certain places, the Secret reads as follows: "To Your Majesty, O Lord, we offer the spotless Lamb, and we pray that Your divine fire may kindle our hearts, which the Immaculate Virgin Mary was inflamed in an ineffable manner."

Having examined the rubrics of the Secret to be said, it appears that it should conclude with "Through the same Lord, etc.," since at the beginning of the prayer, mention is made of the Son of God. Nevertheless, since, in the Mass, which is preserved in the Acts of the Sacred Congregation of Rites, the conclusion of the Secret is "Through the Lord," the question arises: how should this Secret be concluded?

R. It should be concluded with the words: "Through the same Lord."

[*Latin ed. p. 646*]

646 APPENDIX. In the Missa propria of Saint Paul, celebrated at the Cross, which was approved a few years ago, and which should likewise be included in the Appendix for certain places, the Gradual was taken from Chapter 3 of the Epistle to the Colossians, but in such a way that it does not strictly adhere to the Vulgate translation. In the aforementioned Mass, the following is read: "For you are dead, and your life is HIDDEN with Christ; and when Christ shall appear, then you also shall appear with him in glory." Whereas, in the first witness, it is: "EST ABSCONDITA," in the other witness, it is: "then you also shall appear." Therefore, the question is asked: Should the aforementioned Gradual be revised in the new edition of the Missal to conform to the Vulgate reading? Answer: Affirmative. After these matters were subsequently reported to the Most Holy Pope Pius IX by the Secretary of the Congregation of Sacred Rites, His Holiness deigned to ratify and approve the previous answers given by the Particular Congregation. Notwithstanding any objections, on September 27, 1860. SAINT JAMES OF CHILE. The Most Reverend Archbishop of Saint James of Chile, observing in his Diocese, and especially in the Metropolitan Church, that several customs contrary to the laws of the Church have been maintained from ancient times, and in order to obtain complete certainty, whether, under the pretext of long-standing custom, these same customs are still valid, humbly requested the following questions to be declared by the Sacred Congregation: namely: 1. Whether, by force of asserted custom, a Canon celebrant can, in the solemn Mass, say "Munda cor meum" (Purify my

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heart), bless the incense, and the Deacon can read the Gospel while it is being sung? Also, whether it is permissible to immediately follow the Mass with the verse "Et incarnatus est" (And was incarnate) sung by the choir? And also, whether the singing of the Preface and the Lord's Prayer can be omitted, at least on those days when a sermon is given? 2. Whether it is permissible to celebrate the solemn Mass with only a Deacon or Subdeacon, when no other ministers are present? 3. Whether, by force of asserted custom, a Canon celebrant and his ministers, even in the presence of the Archbishop, when he does not occupy his seat, can sit on the side of the Gospel, in the very place where the Archbishop's seat is located, since it is not permanently fixed? 4. Whether it is permissible, by established custom, for Canons celebrating, or for the Archbishop ministering, to sit in the chamber seats? 5. Except for the Presbyter and Deacons assisting, do the other Canons not wear the sacred vestments when the Archbishop solemnly celebrates, or performs those functions in which all dignitaries and Canons are required to do so? The question is asked whether this custom can be tolerated.

[*Latin ed. p. 647*]

VI. When a sermon is delivered before the Archbishop, the preacher announces indulgences, without confession, and other matters prescribed in the *Caeremoniale Episcoporum*. Also, at the end of Mass, when the Archbishop blesses the people, not the attending priest, but the Chaplain, wearing a *cotta*, publicly announces the indulgences. Therefore, the question arises whether this established custom ought to be observed or not.

VII. Given the established custom, can Canons, even if they do not perform the office of an assisting priest, deliver a sermon in the Cathedral and outside of it, even in the presence of the Archbishop, while wearing the *pluvial*?

VIII. Can one, by the force of custom, abandon the prophetic readings, so that the reading of them by the celebrant is altogether omitted?

IX. Where a custom prevails, is it permissible to solemnly administer the Sacrament of Baptism in the sacristy of the Cathedral?

X. By the force of custom, can Canons who perform the office of the Divine Office on feast days remain in their choral vestments until the Chapter meeting, and then only put on the *pluvial*? Also, is it permissible for them to never wear the *pluvial* during the solemn Matins and Lauds, and to incense the altar?

XI. Is it permissible for Canons and others present in the choir, never to cover their heads while performing the Divine Office?

XII. By the force of an asserted custom, can each Canon individually use the *cappa* and *mozzetta*, both outside the Metropolitan area and even outside the Diocese?

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XIII. Can the custom of several churches within this Archdiocese, and especially of religious orders, of reserving the Most Holy Eucharist in two or three altars, and sometimes, on the occasion of a novena or some other feast day, of transferring it to another altar different from those in which it is ordinarily reserved, be maintained?

XIV. Is it necessary to maintain the custom of exposing the Most Holy Sacrament for public adoration, both in the churches of religious orders, and in those in which there is an Apostolic indult for reserving the Eucharist, without the permission of the Ordinary?

S. C., after considering, decided that it should be written down.

Answers:

To I: No.

To II: No.

To III: No.

To IV: No.

To V: No.

To VI: The *Caeremoniale* should be observed.

To VII: No.

To VIII: No.

To IX: No, unless there is a reasonable cause approved by the Archbishop.

To X: No, in either case.

To XI: Affirmative, by those who are not wearing sacred vestments.

[*Latin ed. p. 648*]

APPENDIX Xli. To XI. A negative decree was issued on May 31, 1817 (1). A humble request was made to clarify doubts concerning the Ordination of Priests, namely, whether, fifty years after the imposition of hands, said with an extended hand, upon them, in the prayer: "Let us pray, brothers, for the manifold heavenly gifts, etc.," and with the words: "Let us pray, let us bend our knees, Arise," whether the Bishop and the present Priests must again extend their hands over those being ordained while saying: "Hear us, we beseech You?" XI. Whether, before the Bishop confers the Holy Communion upon the Priests, the words must be said in the conferring of the orders: "May the Body of Our Lord Jesus Christ preserve you for eternal life?" The reason for doubting is that the Priests, together with the Bishop, have already said: "May the Body of Our Lord Jesus Christ preserve my soul for eternal life. Amen." To XIII. Negative. To XIV. Negative. And thus it was decided and ordered to be observed. On March 16, 1861. UBBIS ET ORBIS. Our Most Holy Lord Pope Pius X, after deliberation with the Congregation of Holy Rites, ordered that the following be appended and printed at the beginning of the Missal, along with two other decrees from

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the same Holy Congregation, namely: When the dedication of the Basilica of the Most Holy Savior, and of the Holy Apostles Peter and Paul within the Octave of the dedication of other churches occurs, another prayer of Communion, namely, "O God, who invisibly, etc.," is to be used. On September 25, 1706, for the XL prayers for the Roman Emperor, both in the Mass of the Precious Blood on Holy Friday, and in the Regular Presbytery, the following words are not to be recited: "Because the Roman Empire has been removed," but they are excused, as before, in the new Missals. On September 23, 1860, to III. The Sacred Congregation of Rites, having considered the aforementioned doubts, responded: The Vicarius General of the Ancient Diocese of Briocen. To I. A decree was issued by the Holy See on February 18, 1843 (2). (1) This decree was cited on page 585 in the notes. (2) In the attached document, the question asked by the Bishop was: "Whether, in the Ordination of Priests, the extension of hands by both the Bishop and the Priests must be done, not only within these words: 'Let us pray, brothers, let us bend our knees,' but also after the genuflection, within the prayer that begins, 'Hear us,' up to the Preface, so that the genuflection interrupts only temporarily, and does not cause it to cease." There were several reasons for doubting this.

[*Latin ed. p. 649*]

849 APPENDIX X I I . Regarding the Pontifical rubric concerning the mortar that must be used to bind the stones, as it is done in the consecration of the altar, in Rome. Regarding the formula prescribed by the Roman Pontifical. On March 14, 1861. CARCASSONNE. NEWPORT. To the Bishop of Newport. The Most Reverend Bishop of Carcassonne humbly requested the following to be declared by the Holy See: Concerning an altar in his diocese, in which a stone was placed as a seal for the relics, and because of a defect in the mortar that binds it, the stone no longer adheres to the altar. In order that he might better investigate the matter, the Bishop himself moved the stone with his own hand. When the stone was removed from its place, he lifted it up, saying: "The relics were not touched or moved in any way, and then the stone was replaced." After these things were explained, the Bishop humbly requested that the following be declared by the Holy See: I. Whether the Chapter of the Cathedral Church of Carcassonne has lost the consecration of the altar, as mentioned above. II. Whether the Feast of Saint Michael the Archangel, with its octave, should be celebrated. III. Whether it should be consecrated anew, or whether it is sufficient to rebind the seal and close it. IV. In the case where the seal only needs to be replaced, whether the mortar should be discarded; and the Sacred Congregation, after careful deliberation, decided to respond as follows: The practice of the Church of Rome should be maintained, which is that the Bishop, in the Ordination of priests, lays his hands only in the first prayer: "LET US PRAY, BRETHREN." Here we add another Decree issued on the same day,

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concerning Ordination; for it was asked: "What is to be understood regarding the feasts of precept, in which Ordinations must be completed outside of the permitted times by Bishops who have this faculty, and consequently, whether it is permissible for them to complete the Ordination of clerics on the Feast of Saint John the Apostle and Evangelist, even though in France this feast is no longer a feast of precept?" The Fathers, remembering that in the year 1831, on the eve of the Ides of November, the Sacred Congregation itself issued a decree in Avezzano concerning the first question: that the sacred orders can be conferred on the days of the Apostles and other feasts which have been abolished by the Apostolic See, and that even the minor orders can be conferred on those same days, but only in the morning, as the Bishop of Ancien requested. The Fathers decided to give the Decree issued in Avezzano on November 12, 1831, concerning the first question.

[*Latin ed. p. 650*]

650 ADDENDA. To I. Affirmative. To II. Affirmative, and the commemoration of Saint Michael the Archangel ought also to precede that of the Holy Apostles Peter and Paul. March 14, 1861. SAINT MARCI. Among the other requests presented to the Holy Congregation by the Pro-Vicar of the Diocese of Saint Marci, in the Kingdom of both Sicilies, since certain doubts arose concerning the rubrics pertaining solely to the ceremonies, an examination of these was entrusted to this Holy Congregation for the days of May 8th and November 16th of the preceding year, 1860. Therefore, the aforementioned Pro-Vicar requested the following to be declared:

I. In the Offices of the Holy Mass, both Pontifical and non-Pontifical, which are perpetually or accidentally transferred to a day other than the day of the feast, ought the third verse of the Matutinal Hymn to be changed, or not?

II. In Vigils and on the four days when the Conventual Mass ought to be said after the Non, whether it should be concluded with the recitation of the Antiphon of the Blessed Virgin Mary and other prayers, after the Non has been recited, or even if the Non has not yet been recited?

III. Is it permissible, or not, for a layperson, or a server at the altar, to be present at the Conventual Mass? And, if it ought to be a cleric, is it permissible, or not, for him to wear the cotta?

IV. Is it permissible, or not, to chant the Mass of Requiem at funerals held outside the church, on those days on which the rubrics prohibit it due to the duplication of the office?

V. Is it permissible, or not, for the choir to begin the Responsorium, "Libera me, Domine," at funerals held at the tomb, before the celebrating priest has completed reading the last Gospel of the Mass, and before the same celebrating priest has removed his planeta and maniple, and put on the pluvial, and taken his place at the catafalque?

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VI. In what place ought the aforementioned celebrating priest to remove his planeta and maniple, and put on the pluvial?

VII. During the exposition of the Most Holy Eucharist, while the priest gives the blessing to the faithful, is it permissible, or not, for the thurifer to incense the Most Holy Sacrament?

VIII. On the Matutins of the most sacred night of the Nativity of the Lord, ought the antiphons to be intoned?

IX. What ought to be chanted as the seventh and eighth lessons of the Nocturn in the aforementioned Matutins, when the Bishop is present?

X. In order to fulfill the mandate on Holy Thursday, is it permissible, or not, to allow the washing of the feet of thirteen opulent brothers who are members of the Holy Sacrament confraternity of the Cathedral, excluding the poor?

XI. On Holy Saturday, after the blessing of the baptismal font, in the act of returning to the altar, is it permissible, or not, to begin singing the litanies of all the saints before the altar?

XII. On the Mass of Holy Saturday, prepared for the feast, is it permissible, or not, to have a large veil?

[*Latin ed. p. 651*]

x xii. Whether, during the black vestments of the Lord's Passion, it is permissible for the joyful tone to be allowed by descending, and the removal of that veil at the first sound of the trumpet, for the intonation of the Hymn: "Glory to God in the highest, etc."

XIII. On the feast of the Nativity of the Lord, and on the feast of the Paschal Resurrection, immediately after the completion of the morning Office and before dinner, may the Canons recite Vespers and Compline, in order to prolong the more ample dinner on those days?

XIV. Is it the duty of the Prefect of the Choir, on the feasts of the Nativity and the Paschal Solemnity, to prepare a syllabus or catalogue, in which are described in order all those to whom, by right and custom, it pertains to perform those sacred Functions?

XV. Must the Tract of the Conventual Mass be sung entirely by the choir?

XVI. When the Creed is recited in the Mass, should the organ be played continuously?

XVII. When a Priest celebrates Mass on Sunday with the assistance of Ministers, after the completion of the function of sprinkling with the blessed water, should he withdraw from the sanctuary, where the Credence table stands, and the seat of the Celebrant and Ministers, and approach and enter into the Holy of Holies behind the altar, in order to place down the stole and take up the cope?

The Holy Congregation judged it prudent to respond:

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I. To the first question, "Let Decrees be given."

II. "Let the Rubric be observed, and let a Decree be given."

III. "The Cleric serving at the Conventual Mass must wear a cotta."

IV. "No."

V. "The Response 'Deliver me, O Lord,' is to be sung only after the completion of the Mass, and it is fitting that the choir should begin it when the Priest has put on the stole, and the Subdeacon has reached the foot of the altar with the cross, even if the station of mourning is present in the middle of the choir."

VI. "On the plan, at the Epistle side."

VII. "It is not prescribed, and the custom of the places must be observed."

VIII. "Affirmative."

IX. "It pertains to two assistants to the Bishop."

X. "In this case, it should be ensured that, notwithstanding the custom of washing the feet of the opulent brothers of the Confraternity of the Most Holy Sacrament, as many poor as possible are chosen, if it can be done; for, according to the Ceremonial of Bishops, this seems to demonstrate greater humility and charity."

XI. "If the Bishop is not present, the Missal must be observed."

XII. "Postpone, and explain the matter more clearly."

XIII. "No, and any abuse, if it exists, must be completely eliminated."

XIV. "A catalogue for all the functions of the choir is to be prepared by the Master of Ceremonies, and approved by the highest authority, or the Prefect of the choir."

XV. "The Tract must be sung entirely, without the organ playing."

[*Latin ed. p. 652*]

652 APPENDIX XI. Regarding XI. The Symbolum must be sung completely, even if the organ is played. Regarding XVII. Maintaining custom. And thus, it was decreed and ordered to be observed. On September 7, 1861. FOR THE CITY AND THE WORLD (1). His Holiness, by His authority, has decreed that, from now on, the feast of Saint Angela Merici, Virgin, with its Office and Mass, which has already been granted in some places, shall be observed throughout the entire Church with a lesser double rite. Contrary decrees notwithstanding. On July 11, 1861. OF THE TERRITORIAL ABBEY OF MONTE CASSINO. In the City of St. Germain, which is under the jurisdiction of the Most Reverend Abbot of Monte Cassino, in addition to the ancient Canonry in the parish church, another College of Priests was established some years ago in the Church of the Blessed Virgin Mary of Mount Carmel. However, because of this establishment, a question has arisen among the clergy of the Church of Mount Carmel regarding precedence and the rights to which they are entitled. Therefore, this clergy,

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after making certain requests, has petitioned this Sacred Congregation for the Holy Rite to declare the following doubts: I. After the establishment of the clergy, is it permissible for the Chapter of the Collegiate Church, even if not summoned, to perform sacred functions in the Church of St. Mary of Mount Carmel, as was the case before this establishment, and is it permissible for the Chapter to erect its own cross and perform funeral rites over the bodies that are brought to that same church? II. Is it permissible for the clergy, without the consent of the Chapter of the Collegiate Church or of the Parishes, to lead sacred processions outside their own church, and is it permissible for them to raise their own cross, without any covering, or at least a white silk lappet, which has hitherto been used as a sign of submission, in these processions? III. When the Chapter of the Collegiate Church approaches the Church of St. Mary of Mount Carmel, must the clergy of this church yield a more honorable place and their own stall to the Chapter of the Collegiate Church? And in a solemn Mass celebrated over the body of a deceased person in the same church, even with the assistance of the Chapter of the Collegiate Church, who should minister as Deacon and Subdeacon, must the clergy, namely the beneficiaries or, as they are called, the semi-canons of the Collegiate Church, yield as was customary before the establishment of the clergy? IV. When the Most Reverend Abbot, as Ordinary, performs pontifical functions in the aforementioned church, must assistance be rendered to the Most Reverend Ordinary? (1) For the sake of brevity, we are referring only to the dispositive part of the present Decree, omitting the narrative part in which are indicated the excellent and weighty reasons by which the Holy Father was moved to issue it.

[*Latin ed. p. 653*]

X. And are the sacred vestments to be worn by the clergy who attend?

V. In the association for the burial, to which the clergy are called by the heirs, along with the parish priest of the deceased, is the parish priest of the deceased obliged to celebrate Mass, and perform the other offices over the deceased, even if the deceased died outside the limits of his parish?

VI. Can the parish priest, within whose parish the aforementioned church of Mount Carmel is located, lawfully and freely perform the offices over the deceased bodies which are brought to this church, and is the same permitted to a parish priest whose parish is located outside the limits of the same church?

VII. Can the parish priest of another church, and therefore not directly connected to the clergy, receive, besides the monetary compensation of 25 Neapolitan grains due to him by the heirs, another compensation double that which is paid to any member of the clergy who attends the funeral?

VIII. Although the parish priest is entitled to double compensation from the clergy who attend, must the same parish priest at least divide with those participating in the clergy's compensation of 25 grains, which is paid

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to him alone by the heirs of the deceased?

IX. Can the parish priest forbid the heirs of the deceased from performing the offices over the body in another church, before the body is transported to the place of burial?

X. Is it permitted for the rector of the clergy to wear the stole in processions?

XI. If the parish priest has the right to celebrate Mass solemnly over the deceased body in the aforementioned church of Mount Carmel, can he in this case entrust the celebration of this Mass to another priest he deems suitable, or is he obliged to entrust it to the parish economist or vice-parish priest?

XII. And to the extent that the parish priest enjoys this right, is the same to be said in the funeral of a brother or sister of the Scapular of the B. Virgin, for whom the clergy are obliged to celebrate Mass solemnly?

S.C. Having received the information and heard the request, the Master of Ceremonies has written his opinion.

To I. Affirmative, and the Chapter of the Collegiate [Church] must maintain its right to perform the sacred offices it deems appropriate, including the funeral rites over the bodies of the deceased in the Church of the B. Virgin of Mount Carmel, so that the clergy of this church may not innovate or change anything to the detriment of the Chapter of the Collegiate.

To II. Negative, unless with the consent of the Ordinary, and regarding the vestments, the Decrees must be followed.

To III. Affirmative regarding the first part, and regarding the second, in the ministry, a Deacon and Subdeacon should serve, who are appointed to that office in the Collegiate.

[*Latin ed. p. 654*]

6iU APPEN Ad V. Negative. Ad V. Affirmative, and the funeral rites over the body shall be performed by the parish priest of the deceased, to whose jurisdiction the deceased belonged, until the body has been demanded for burial. Ad V I. To be determined by the parish priest of the deceased. Ad V I I. Affirmative. Ad VIII. Negative, and the disposition of the Reverend Abbot, dated September 9, 1856, and June 28, 1857, shall be observed. Ad I X. Negative, but the funeral rites over the body, if performed in a different church, shall be performed by the parish priest of the deceased. Ad X. Negative. Ad X I. The celebration of Mass in the funeral rites over the body pertains to the parish priest, or to another priest to whom this duty has been assigned by the parish priest. Ad X I I. The funeral rites, as in the question, can be performed by the clergy present after the parish priest has completed the funeral rites over the body, and after the body itself has been delivered for burial. And thus it was written, and it was absolutely commanded to be observed. On September 7, 1861. SAINT MARK.

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The Archdeacon of the Cathedral Church of Saint Mark in the Kingdom of both Sicilies, and Pro-Vicar General of that Diocese, humbly requested the Sacred Congregation to deign to express its opinion on the following questions: x xii. I. Contrary to the Decree of the Sacred Congregation of Council of April 13, 1720, regarding the second question, are those clothed in canonical habit bound to not assist in the Episcopal court, and to not associate with the Bishop who proceeds from the court to the Cathedral? I I. Are the hebdomadarius [choirmaster] and all others present in the choir bound to rise when antiphons are intoned by dignitaries, canons, and priests? I I I. In the Benedictions of the Readings, is the hebdomadarius, and all others in the choir, bound to rise? I V. If the hebdomadarius is to celebrate a solemn Mass after the sprinkling of blessed water on a Sunday, may he remove his pluvial [rain cloak] and put on his chasuble on the floor or in the middle of the altar, and before the steps thereof? V. In the aforementioned case, must the hebdomadarius absolutely not approach the scamnum [sedile], or the Credentia [credence table], and there remove his pluvial and put on his chasuble? V I. For solemn Vespers, besides the choral altar, where the Most Holy Sacrament is not present, must the altar of the church, in which the Most Holy Sacrament is reserved, be thurified? V I I. Can the sound of the organ absolutely be mixed with the singing when a solemn or Pontifical Mass is being celebrated, if the entire Symbolum [creed] is sung in notes?

[*Latin ed. p. 655*]

XII. Or, should the chanting in the Gregorian style and in firm singing be performed by the choir? VIII. The weekday prayers at Vespers and Lauds on days of fasting should they be sung in a manner that avoids harshness, from the note F to the note Re, or should the hebdomadarius (lector) use a uniform voice?

X. Should the hebdomadarius rise and stand while reciting the prayers that are said after the weekday prayers?

XI. In the chanting of the Passion, can the text of the Gospel be sung by the organist, especially if he is a minor cleric, or at least a subdeacon?

XL. On the feast day of the Dormition of the Blessed Virgin, should the Bishop's chair or faldstool be placed in a particular location?

XII. During the Mass on Holy Saturday, while the hymn "Angelicus cantus" is being sung, is it permissible to lower the pall or veil of the Passion over the altar, which has been prepared for the feast, so that the faithful may experience a sudden and scenic change in the decoration and appearance of the church, while at the same time the doors or windows are opened?

XIII. Throughout the Octave of the Most Holy Body and Blood of Christ, when it is customary to place the tabernacle with the Most Holy Sacrament exposed during the recitation of Vespers and other Divine Offices, is it

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permissible to alternately uncover and cover it at will?

XIV. During the exposition of the Most Holy Sacrament, should something be sung by the choir, or by the celebrant?

XV. Is it permissible for ecclesiastical, and especially canonical, dignitaries to carry the bier of a deceased priest, or at least to carry four fringes of the burial cloth?

XVI. On the day of the burial, should the three nocturns for the dead be recited?

XVII. When reciting the prayers for the dead, such as "Deus Indulgentiarum," etc., "Inclina Domine," etc., is it permissible to add the name and title of the deceased?

XVIII. At funerals, even on anniversaries, before the reading of the second Gospel in the Mass is finished, and before the celebrant, having put on his cope, approaches the tomb, can the singers begin the chant "Libera me, Domine," unless the Archdeacon, holding the first dignity, at the appropriate and convenient time, precedes or orders the singing with a sign?

XIX. What location in the church should be prepared for the celebration of the Holy Eucharist?

XX. Should a canon solemnly celebrating Vespers and Lauds have before him a chair or lectern adorned with a tapestry, with a book in which he sings the antiphons, the hymn, and the capitulum?

XXI. How should the double thurible be used, by which the deacon in the choir should incense each canon, namely, one for each?

[*Latin ed. p. 656*]

APPENDIX XN. 656. The Most Holy Congregation, having received a petition from the Master of Ceremonies, has decided to respond to the following questions:

I. Should the celebrant complete the ceremonies with a double "Amen"? Negative.

II. When a Bishop, wearing his pontifical vestments, is present privately at Mass, and a Religious is assisting, should all rise before the altar during the solemn Mass and the exposition of the Most Holy Sacrament? Yes. Should the altar be incensed three times by the Canons? Yes.

III. In the case mentioned, if a Deacon and a Subdeacon are present at Mass, should they ask for a blessing, and should the regulations and decrees be observed? Yes. The decree issued in Trivento on August 5, 1663, should be observed.

IV. (1) If the Bishop is not present, should permission be granted to sing at the First Mass? Yes.

V. Regarding the Gospel, should the Gospel be kissed, and should the Epistle be read? Yes.

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VI. Is it necessary to inform the Bishop, by word or gesture, that the incense should be offered? Yes.

VII. Yes.

VIII. Regarding the Vespers, should one say, "Open my lips, O Lord, and my mouth shall declare Your praise"? Yes.

IX. Yes.

X. Negative.

XI. In the "Hebdomadarium," it is written: "Days and deeds are ours; help is ours." Should this be said? Yes.

XII. Regarding the Compline, should the lector of the Epistle be placed at the foot of the altar, facing the altar, according to the form in the Ceremonial, book 2, chapter 25? Yes. Should the Lord grant us a quiet night, and before the Divine Office is completed, may an image be placed on the altar, covered with a simple purple veil? Negative. And, once the function of the choir is completed, can it depart without any scenic representation? Yes.

XIII. Can a Canon, in the choir and in his own stall, use a cushion, commonly called a "pulvinari," of leather? Negative. (1) In the aforementioned Trivento, the fourth question was: "Are the hebdomadarius [lector] and all others in the choir obliged to rise during the Benedictions of the Readings?" The Most Holy Congregation responded: "The hebdomadarius is always obliged to rise, and the others in the choir are obliged to rise when the hymns are sung solemnly." (2) In the aforementioned document from Montepulciano, the Most Holy Congregation declared: "The custom of lowering the voice during the recitation of the ferial prayers at Vespers and Lauds on days of fasting, from Fa to Re, should not be observed, but a uniform tone and voice should be used, simply from Fa."

[*Latin ed. p. 657*]

X. XII. Regarding X to XIV. Singing is permitted only at the discretion of the Bishop. Regarding XV. Negative. Regarding XVI. Affirmative, unless reasonable causes are present as indicated by the Ritual. Regarding XVII. Negative. Regarding XVIII. Regarding the first part of the doubt, provision is made by the resolution of September 7, 1861; regarding the second part, it pertains to the Master of Ceremonies giving a signal to the singers to begin the Responsorial. Regarding XIX. Unless the church is so large that the washing of the feet can be performed in a certain chapel without the danger of irreverence towards the Most Holy Sacrament exposed: the action must be performed in the sacristy, or in another room near the church. Regarding XX. Affirmative, and the Ceremonial is to be observed. Regarding XXI. Affirmative. Regarding XXII. Negative. Regarding XXIII. Negative. Regarding XXIV. Regarding the first question: affirmative, when the hebdomadarius is not a canon but a lower member of the clergy. Regarding

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the second question: the custom is to be observed. Regarding the third question: affirmative. Regarding XXV. Negative. And thus it was written and ordered to be observed: On March 22, 1862, in QUITEN-CONCHEN - GUAYAQUIL. From the Acts of the Vicars Capitular of the Dioceses of Quito, Conchen, and Guayaquil, Volume III, Section XXXVI, page 657, it is noted that Pope Gregory XIII, in his Pastoral Office Bull of December 30, 1573, granted to certain churches, to which exemptions and privileges were expressly granted in that Bull, that the sprinkling with blessed water before the solemn Mass on Sundays was not to be performed by the Bishop or other principal celebrant, but could be performed by any simple priest in his place, and that such a priest should not wear the pluvial, but an alb and stole, nor should he precede the assistants with the ministers, but only with the acolytes, and that since the year 1860, the Sacred Congregation of Rites humbly requested clarification as to whether, in those cathedrals, on days of greater solemnity when the Bishop is not celebrating in Pontifical form, but rather a conventual Mass is celebrated by another principal person, whether the term "principal person" should be understood to mean canons or only the dignities of those cathedrals. The Sacred Congregation, after deliberation, decided to respond: "The sprinkling is to be performed by a priest, even when the dignitaries of the chapter are celebrating." On March 22, 1862, in PALMA IN BALEARIBUS. The Master of Ceremonies of the Cathedral Church of Palma in the Balearic Islands humbly requested that the following three doubts be declared by the Sacred Congregation of Rites.

[*Latin ed. p. 658*]

658 APPENDIX I. Since municipal laws prohibit the bringing of deceased bodies to the Church, and therefore funerals cannot be celebrated in the presence of the body, the question arises: whether, if the Mass for the Requiem is not celebrated on the following day, it can be celebrated on the third, seventh, or thirtieth day.

I. Is it required for the celebration of the Mass for the Requiem on the third, seventh, and thirtieth days, in cases where it is not impeded, that the deceased should have so ordered in his will, as some authors suggest, or is it sufficient that the will of relatives, friends, or the executors of the will be present?

II. On the feasts of the Nativity, the Pasch, and the Ascension of Our Lord Jesus Christ, should a commemoration of the Most Holy Sacrament be added to the solemnly sung Mass before the Most Holy Eucharist, or is a single prayer for the feast sufficient?

The Sacred Congregation decided that a response should be given.

To I. In this case, one must follow the other Decrees, especially that of Florence, dated April 25, 1751, where, even on holy days of precept and on days of the second class, a single solemn Mass for the Requiem with absolution and the prayers that are usually recited on the day of death is

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permitted, even if the body of the deceased is not present in the Church, but is still kept in a suitable place, according to religious custom, provided that a sign, either a black or dark cloth, is placed in the Church, as is used on the anniversary, so that the faithful may understand that the Mass is being offered on those days for the soul of the deceased, whose body has not yet been given to the earth, and that they may add their own prayers to those of the Church.

To II. Negatively to the first part, affirmatively to the second, provided that we are speaking of a sung Mass.

To III. The Instruction issued by Pope Clement XII on September 1, 1730, concerning the Forty Hours prayer, should be observed.

March 22, 1862. VALENTIN.

The Most Reverend Lord Marianus Barrio y Fernandez, Archbishop of Valentin, desiring that, as far as possible, all things proceed according to the canonical regulations in the performance of the sacred functions in his diocese, requested that the following doubts be declared by the Sacred Congregation:

I. Can the practice be tolerated whereby, in addition to the singing of the Mass itself, some praise, commonly called an aria, is sung in the choir by musicians in the vernacular language?

II. Can the practice of sitting in the choir be maintained while the "Gloria Patri" is said after the Psalms?

III. While the canonical hours are solemnly recited in the choir before the Most Holy Sacrament exposed for public adoration, is it permissible, due to the excessive length, that the choir members sit down, as permitted by the laws of the Church; and is this permission extended to...?

[*Latin ed. p. 659*]

X xii. Quomodo de missione etiam ad cantum "Gloria Patri" in fine Psalmorum? Sacra Congregatio censuit respondendum. Ad I. Negative, et ut abusus eliminentur. Ad II. Affirmative. Ad III. Affirmative. Die 22 Martii 1862. SANCTI PAULI DE MINESOTA. Rmus Dominus Thomas Grace, Episcopus Sancti Pauli de Minesota, humiliter petiit a Sacra Rituum Congregatione ut sequentia dubia declararentur: I. Cum Patronus, seu Titularis Ecclesiae illius Cathedralis sit sanctus Paulus Apostolus, quaeritur an Festum Titularis, et Patroni recoli debeat die 29 Iunii, qua Festum occurrit Sanctorum Apostolorum Petri et Pauli, vel potius sequenti die 30 eiusdem Mensis, qua Commemoratio agitur Sancti Pauli Apostoli? II. An tolerari possit mos in multis Ecclesiis existens, quo Sacerdos ante Missam Conventualem graditur per Ecclesiam, incipiens a parte Epistolae, et rediens per partem Evangelii, interim aspergens populum cum aqua benedicta? An potius aspersio Aquae benedictae facienda omnino sit per Sacerdotem stantem in aditu Sanctuarii, et inde ter populum in

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medio, a dextris et a sinistris aspergentem? III. Ob Clericorum paucitatem impossibile evadit, ut iuxta praescriptum Coeremonialis Episcoporum, Diaconi adsistentes adhibeantur in Missa pontificaliter ab Episcopo celebrata. Insuper decet, ut in solemnioribus Festis Episcopus ita celebret; et contrarium populo scandalo foret: quaeritur inde an iis in adiunctis liceat Diacono et Subdiacono Missae locum supplere Diaconorum assistentium? IV. Etsi a Sanctissimo Domino Nostro Pio Papa IX potestas facta fuerit Episcopo Sancti Pauli de Minesota Feria quinta in Coena Domini Sacra Olea conficiendi cum Sacerdotibus qui haberi poterunt, evenit interdum, ut duo tantum vel tres ad maius haberi possint Sacerdotes, qui etiam Episcopo solemniter celebranti in Diaconali et Subdiaconali Officiis inserviunt, coeteris ob longitudinem itineris et necessitatem populorum pro Festis Paschalibus rite et devote celebrandis praeparandorum Cathedrali assistere omnino impeditis. Quaeritur ergo, an stante supra enunciata Pontificia dispensatione cum tam exiguo Sacerdotum numero, eadem Feria Olea Sacra consecrari possint. V. Estne omnino necessarium ut Olea Feria quinta in Coena Domini consecranda debeant esse recentia, ex exemplo, ultimi anni? Sacra Congregatio censuit respondendum: Ad I. Negative ad primam partem, affirmative ad secundam, et strictim servandam Rubricam in Breviario appositam ante Festum Sancti Pauli Apostoli. Ad II. In casu, consuetudinem servandam.

[*Latin ed. p. 660*]

660. Regarding the wearing of the Cross:

I. If the necessity is affirmed, proceed to the next question.

II. If the necessity is deemed to exist, proceed to the next question.

III. If the necessity is denied, or is not deemed to exist, the matter is concluded.

March 22, 1862, RUPELLEN.

Whereas, Our Most Holy Father, Pope Pius IX, with paternal kindness, granted, in response to the petition of the Bishop of Rupellen, dated October 19, 1860, a special grace to the Vicars General of the same Bishop, as well as to the titular and honorary Canons of that Cathedral Church, granting them the privilege of wearing a gold Cross upon their choir vestments; and whereas, there is not unanimous agreement among these Canons regarding the extension of this privilege, since some maintain that by "choir vestments" are to be understood only the rochet and mozzetta, excluding the sacred vestments, namely the pluvial, chasuble, dalmatic, and tunicle; and therefore, the granted Cross cannot be worn by Canons wearing these vestments; while others, on the contrary, maintain that by "choir vestments" is to be understood whatever is worn by the Canons in the choir, and therefore, they extend the use of the granted Cross even to Canons wearing these vestments; yet, nevertheless, they have thus far refrained from wearing the

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Cross while obligated to wear the sacred vestments; and meanwhile, they have humbly requested that the Sacred Congregation declare:

I. Whether, by "choir vestments," are to be understood only the rochet and mozzetta, or also the sacred vestments which the Canons wear when celebrating Mass before the Bishop, according to the regulations?

II. Assuming that by "choir vestments" are to be understood also the sacred vestments, can the Cross, granted by the privilege, be worn by Canons, whether simply seated in the choir, or assisting the Bishop in celebrating Mass, or even by the Deacon of the Gospels and the Subdeacon of the Epistle?

The Sacred Congregation decided to respond:

I. Affirmative, regarding the first part; negative, regarding the second part.

II. In accordance with the provision in the preceding question.

And thus it responded and ordered that it be observed.

March 22, 1862, AREQUIPA.

The Most Reverend Bartholomew Herrera, Bishop of Arequipa, petitioned the Holy See:

Whether the Cathedral Canons of Arequipa, given the custom alleged by them, can use the stole and the pluvial cape in the preaching of the Word of God? And whether, in virtue of the aforementioned custom, they can do so even in the presence of their own Bishop?

The Sacred Congregation decided to respond:

Provided that the custom exists, nothing prevents its continuation.

December 23, 1862, ORDER OF CARTHUSIANS.

Whereas, in some churches, especially in France, a woolen girdle is used among the sacerdotal vestments for celebrating Mass, the Procurator General of the Carthusian Order...

[*Latin ed. p. 661*]

ix. Certain individuals requested that the Holy See declare whether "cingula" (bands or girdles) made of wool could be lawfully used in the celebration of the Holy Sacrifice of the Mass. The Sacred Congregation decided to respond: "Nothing prevents the use of cingula in the recitation of prayers." December 23, 1862. OF SAINT JAMES OF CHILE (1). Certain Canons of the Metropolitan Church of Saint James of Chile humbly requested that the Sacred Congregation declare: "Whether, in the recitation of the canonical hours in the choir, the choral parts should observe the pause indicated by the asterisk?" And further: "Whether this custom should be maintained, or whether it should be discontinued, as it is obligatory in this case?" The Sacred Congregation decided to respond: "The pause indicated by the asterisk must be observed in the recitation of the

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canonical hours, notwithstanding any custom to the contrary." And it responded in this manner, and ordered it to be recorded. July 9, 1864. OF NICARAGUA. The Most Reverend Bernard P. Bishop of Nicaragua, deeply concerned that all matters pertaining to the sacred liturgy should be performed properly and in due order, and finding himself in doubt, presented the following questions to the Sacred Congregation, so that it might clarify the matter: "Among the privileges enjoyed by the Religious Order of the Most Blessed Virgin Mary of Mercy, for the Redemption of Captives, was the privilege of celebrating a solemn votive Mass of the Most Blessed Virgin Mary every Sunday, notwithstanding any feast of double rank that might occur on those days. But since the Sacred Congregation of the Most Blessed Virgin Mary of Mercy has long since been extinguished in this diocese, it has seemed permissible to some of the secular clergy to use this same privilege in the churches dedicated to the Most Blessed Virgin Mary of Mercy. Now, in order to resolve the controversy that has arisen regarding this matter, it is considered advisable to consult the Sacred Congregation, so that it may deign to declare whether this practice is lawful. And further: It is requested that the Most Reverend Congregation deign to grant this privilege to the secular and regular clergy of Nicaragua."

(1) Before this decree, in the Gardelliniana collection, are found the Decrees of the City and the World, and the Apostolic Letters in the form of a Brief, by which the new Office with the Mass responding of the Immaculate Conception is approved and prescribed to all. Also, the General Decree concerning the signs for recognizing the bodies of martyrs found in crypts, which I cited in Vol. II, page 170, in the notes. Also, the Decree concerning the feast of Saint Andrew of Avellino, which I cited in Vol. I, page 238. Also, the Decree of several dioceses concerning the oil to be used in the lamp before the Most Holy Sacrament, which I cited in Vol. I, page 38.

[*Latin ed. p. 662*]

662. It is permitted to sing the votive Mass of the Blessed Virgin Mary in the churches of the same Blessed Virgin of Mercy on all Saturdays, except for those already enumerated by the Sacred Congregation of Rites in its decree of November 19, 1633, and also on the feast day of the same, for all priests to come to the churches of the same Order or dedicated in the title of the Blessed Virgin of Mercy, and to celebrate the proper Mass formerly granted by the Rules.

11. Whether the custom, handed down from time immemorial, of celebrating another Mass, besides the Mass of exposition, at the altar where the Most Holy Sacrament remains publicly exposed, should be maintained, especially when it is the principal solemnity and a large crowd of the people is present; or rather, whether it should be eliminated as an abuse, even though the faithful may be saddened by this?

111. When is it customary to expose the Most Holy Sacrament for ado-

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ration in the main altar of the Cathedral church, besides the first Mass for exposition and the second Mass which is said with solemnity, another third Mass, which is the chapter Mass: but it is doubtful whether such a practice is permissible, or rather, whether it should be transferred to another part of the church, so that the Mass may be celebrated there, although this seems inappropriate, provided that the people would then be diverted from the adoration of the Most Holy Sacrament?

IV. Sometimes it happens, during the Octave of Corpus Christi or on other days, that, besides the first Mass of the feast, another Conventual Mass is celebrated on the vigil or on a weekday, to be sung in the same altar, which, according to the prescription of the Rubrics, should be celebrated in violet vestments, with the weekday chant, and without music, the mournfulness of which seems to contradict the precious and festive decorum prescribed in the Ceremonial of Bishops for the altar of exposition: therefore, it is doubtful whether the custom of singing the aforementioned weekday Mass at the main altar, where the Most Holy Sacrament is exposed, should be maintained. And if not, whether for the same reason, the Most Holy Sacrament should be openly exposed during Lent and Advent, when a Mass of the season is celebrated?

V. Can the established custom of exposing the Most Holy Sacrament throughout the day on those solemnities which have a different purpose or mystery than the Eucharist, such as the feast of the Blessed Virgin, or of some other Saint, be maintained, or rather, should it be eliminated as an abuse, even if it displeases the people?

VI. Is it permissible to expose the Most Holy Sacrament publicly before dawn, and to remove it at night, or rather, should this be prohibited, since the same reason seems to be the one for which the Sacred Congregation forbade giving Holy Communion to the faithful before dawn?

[*Latin ed. p. 663*]

APPENDIX XII. V I I . Whether the custom of singing hymns in the Spanish language, and other similar musical forms, before the exposed Blessed Sacrament, or in its Processions, can be tolerated in this Diocese, contrary to the solicitude of the Most Reverend Alexander VII, and other Decrees of the Sacred Congregation of Rites; or, rather, whether it should be suppressed, even if the people are saddened by it? And, to the contrary: whether, at least, the custom of singing hymns in the vernacular language in churches, not before the exposed Sacrament, during the celebration of Divine Offices, can be maintained?

To I. Negatively, regarding the first part; regarding the second, it is to be requested from the Most Holy [See] for the granting of grace, according to the prayers pertaining to churches of the Order of the Blessed Virgin Mary of Mercy (1).

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To II. Considering the ancient custom, it can be tolerated.

To III. In the case mentioned, as in the preceding [question].

To IV. Regarding the first part, affirmatively; regarding the second, with the provision stated in the first.

To V. Affirmatively regarding the first part, negatively regarding the second.

To VI. Regarding the first part, generally negatively; regarding the second, with the provision stated in the first.

To V I I . Considering the ancient custom, it can be tolerated. And thus it was written and preserved.

On September 27, 1864. After the aforementioned doubts, the Most Reverend Pope Pius IX, through the Cardinal Prefect, having ratified the judgment of the Sacred Congregation, benignly granted the requested Indult, according to the prayers.

On October 1st of the same year.

NIYERNEN.

Most Reverend Sir, as your brother.

Reporting that it often happens that all altars must be restored in part with stone, but arranged in such a way that a stone slab is placed on a stone base on both sides, leaving a space in the middle, under which are hidden boxes containing sacred relics, arranged conveniently so that they may be visible to the faithful, at least on more solemn days; [he] did not fail to note that in this Diocese of Trecensi there are also other fixed altars, which... (1) Refer to what I have stated in Vol. 1, pages 239 and 687.

[*Latin ed. p. 664*]

664 The [altars] are adorned with columns, which occupy the space of the pilasters, approximately to the middle of the [altar] table. And since Your Eminence requires that it be determined whether [altars] of this type are included in the Decree of the Congregation of Sacred Rites of February 9, 1675, concerning empty [altars]; and inasmuch as the Holy See has humbly requested the authorization to consecrate such [altars]; the Sacred Congregation of Rites, convened today in its ordinary meeting at the Vatican, having carefully considered all matters, and deeming it appropriate to communicate the following to Your Eminence through the undersigned Secretary by means of these letters, has decided that the aforementioned [altars] can be consecrated, provided that they adhere in every respect to the prescriptions. Rome, December 20, 1864. ORDER OF MINORS OF SAINT FRANCIS. In the year 1831, on November 12, the Sacred Congregation was asked to declare, concerning Question 43, whether some, in the recitation of the Divine Office, either in the choir or privately, make the sign of the cross, strike their breast, uncover their head, and bow, even in those places where neither the Rubric nor the Missal nor the Ceremo-

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nial prescribe it. Therefore, the question is asked: when should all of these things be done, both in the public and in the private recitation of the Divine Office? The Sacred Congregation simply responded: The Rubrics must be observed. Since this response has not brought about the desired uniformity, and diverse opinions on the matter have arisen in practice, the Provincial Minister of the Order of Minor Friars of Saint Francis, of the Capuchin Province of Genoa, has proposed the following two questions to the Sacred Congregation: I. Whether the sign of the cross should be made only by Bishops, specifically mentioned in the Ceremonial of Bishops, at the Magnificat and Benedictus, or by all those reciting [the Office]? II. And, inasmuch as an affirmative answer is desired regarding the second part: whether this sign of the cross should be made always, that is, in every Office, even the Office for the Dead, both in the choir and outside the choir? The Sacred Congregation responded: In this case, the sign of the cross should be made by all, both in the choir and outside the choir, according to the commendable common practice observed, especially in the esteemed City [of Rome]. December 20, 1864. The remaining decrees will be presented in the Appendix of the fourth volume, which immediately follows.

[*Latin ed. p. 665*]

SUMMARY OF THE EVENTS CONTAINED IN THIS THIRD VOLUME. MORE SOLEMN ACTS OF THE ROMAN PONTIFF. Allocution delivered on July 12, 1876, concerning the Armenian Patriarchate of Cilicia. Allocution of His Holiness given in a public Consistory on June 26, 1867. Allocution of the same, addressed to Catholic priests in the Vatican buildings on June 25 of the same year. Homily of the same, delivered in the Vatican Basilica during the solemn Mass, on a day of great solemnity, on which the centennial celebrations of the Apostles were held. Prayer of the Bishops addressed to the Holy Father, signed with unanimous consent. Response of the Holy Father to the aforementioned prayer. Allocution of the same, dated September 20, 1867, in which he condemned and denounced the laws of the Piedmontese Government that deprive the Church of its possessions, and in which he mentioned the unfortunate Maximilian, and among other praises, he extolled the memory of Cardinal Ludovici Altieri, which will never perish. Encyclical Letter, in which His Holiness described the most abominable things by which Italy is afflicted, the distresses by which the Apostolic See is oppressed by new Vandals, and the evils by which the Church is afflicted in the Russian Empire. Allocution delivered on December 20, 1867, concerning the victory in the battles of Nomentano and Arezzo, and concerning the flourishing life of the Catholic Church. Apostolic Letters in a non-formal form, by which the so-called Apostolic Legation and Monarchy in Sicily, as well as the delegated judge, etc., are abolished and annulled. Apostolic Letters in the form of a Brief, prescribing the manner in which ecclesiastical causes in Sicily may and must be judged.

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Apostolic Letters in the form of a Bull, by which the Armenian province of Constantinople, with the extinction of its patriarchal title, is united to the Patriarchate of Cilicia, and certain fundamental principles of discipline are established. Apostolic Letters in the form of a Bull, by which the Most Reverend Father Antonius Petrus Hassun is appointed Patriarch of the Armenian Patriarchate of Cilicia. The famous Encyclical Letter: *Quanta cura*, is mentioned, as well as the letter of Cardinal Antonelli, in which the *Syllabus* is presented to all Bishops, containing condemned errors, by order of the Holy Father. Brief Letters, by which the Bishops who convened in Rome to celebrate the centennial celebrations were granted privileges in the presence of the Holy See. Also, concerning the universal granting of the violet biretta.

[*Latin ed. p. 666*]

666 SUMMARY OF ACTIONS. Letters in the form of a brief, concerning Cardinal Jerome D'Andrea. 322 Reference to the Constitution of Innocent X concerning the resignation of Most Reverend Cardinals from ecclesiastical office without the permission of the Holy Father. 333 Letters, by which the aforementioned Cardinal was restored to the insignia and privileges of his Cardinalate. . . . 380 Letters, by which the Order of the Blessed Virgin was adorned with the beautiful insignia of honor. 382 CHURCHES WHICH ARE SPECIFICALLY MENTIONED IN THIS BRIEF DESCRIPTION: From the Pontifical Territory: Albania. Balìeoregien. . . . 273 437 From France: Senones, Vapincen. 110 275 From Hungary: Cassovien. 549 From Algeria: Oranen, Ili. From Spain: ACTS OF THE CONSISTORY. Authentic acts of the secret Consistory held on July 12, 1867, and others, which pertain to the election and confirmation of the Patriarch of Cilicia of the Armenians and the translation of the See. 337 Formula of election. 338 Decree of the Sacred Congregation for the Propagation of the Faith concerning the affairs of the Eastern rite, by which His Holiness, with the title of Primate united, established the patriarchal title of Cilicia of the Armenians in Constantinople, and regulated several important points of discipline. 340 Consistory address concerning the same matter. 343 Petition for the sacred Pallium. 348 Formula of oath. . . . . ibid. A most excellent oration of the new Patriarch of Cilicia of the Armenians to His Holiness. 380 Consistories are indicated which were held before the solemn canonization on June 23, 1867, and furthermore, the secret Consistory held on July 12 is mentioned, in which several, among others, churches are described. 109 Also, concerning the Consistory held on September 20, 1867. 273 Also, concerning the Consistory held on December 20, 1867. 137 Also, concerning the Consistories held on March 13 and 16, 1868, in which the creation of certain Most Reverend Cardinals is discussed, and also concerning several churches which were donated to pastors. 496 and 5 4 9. Burgen, Salamantin. 276 549 From Belgium: Mechlinien, Namurcen. 554 438 From Prussia: Warmien. 438 From

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[*Latin ed. p. 667*]

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[*Latin ed. p. 668*]

668 SUMMARY OF CASES. The census, from which it is derived, establishes the obligation to pay the census, even if the assessed property is sold. 371 Regarding the burdens of Masses and their reduction. 374 Marriage, which was not contracted before the Parish Priest, and hence, the existence of a delegation is disputed. 401 Institution or dispensation for obtaining a chaplaincy; furthermore, the suspension of nomination for recovering the chaplaincy's assets is discussed. 409 Conventual Mass. 412 Erection of a baptismal font in a parish church that lacked a sacred font. 413 Union of chaplaincies. 418 Vicars and Curates regarding removal. 449 Impediments to betrothal. 458 Impediments to marriage. 462 Service in the choir regarding assignments and vacancies. 464 Indulgences for choral duties. 468 Commutation of vows. 472 Absolution and reduction of Masses. 475 Erection of a chaplaincy. 477 Erection of a baptismal font. 513 Jubilees and restitution of fruits, in which the execution of Rescripts from the Holy See is incidentally discussed. 519 Application of Masses, which application is considered connected with the burden of celebration unless the contrary is established. 525 Dispensation from irregularity, granted to a priest who is deprived of the use of his left hand. 527 FROM *PARTICULARUM S. CONGR. CONCILII*. Regarding the ordinary jurisdiction or exemption claimed by the Chapter of the cathedral church against the Bishop. 65 FROM THE HOLY CONGREGATION OF BISHOPS AND REGULAR CANONS, in which the cause extensively discusses whether the rights of the parish priests are

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[*Latin ed. p. 669*]

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Congregation of Clerics Regular of the Mother of God and the first companion, John Leonard, the founder. 269 Amerina, or the case and Decree concerning the non-cult of the Venerable Servant of God, Father Generose Maria of Premosello, of the Order of Saint Francis. . . . 377 Of the City and the World, in which the elevation of the rite on the feast days of Saints Joachim and Anne is enacted, as well as the insertion of their names in the Litany of the Saints. 478 Neapolitan, or Decree concerning the theological and cardinal virtues of the Venerable Servant of God, Brother Giles, of the lay order of the Minor Friars of Saint Joseph of Alcantara. 487 Concerning the diaconal service in the pontifical ceremonies on Holy Thursday, at the Last Supper, in which it is discussed who the Deacon should be who is to offer and receive the Sacred Sacrament, when the Bishop is celebrating Mass, in the procession that follows. . . . 539 Of Strigonia, or Cassovia. Concerning the beatification, or declaration of martyrdom, of the Venerable Saints Mark Crisini, Stephen Porgraz, and Melchior Crodeczii, concerning a doubt about the validity of the processes. . . . 548 Of Toledo, or Cordoba. Concerning the beatification and canonization of the Servant of God, John of Avila, concerning the same doubt, as mentioned above. See Appendix XII, where many Decrees are reported. 563 FROM THE HOLY CONGREGATION FOR ECCLESIASTICAL IMMUNITY. A declaratory letter concerning the privileges of Clerics who have relinquished their clerical insignia in sacred and non-clerical functions. 433 FROM THE AUDIENCE OF THE MOST HOLY LORD. A double plenary indulgence is granted for two prayers. 385 and 495. APPENDICES. Appendix I. Concerning the prayer of Bishops to the Holy Father, compared with the Apostolic Encyclical letters of December 8, 1864, and the Syllabus of Errors appended to those letters. 62 Appendix II. Constitution of the Most Holy Lord, concerning the sacred vessels of the Most Eminent Cardinals and the sacred objects of deceased prelates. 277 Appendix III. Two documents are reported, which are indicated in the acts of the Holy See, concerning the Leuven questions. 283 Appendix IV. Constitution of Innocent X concerning the withdrawal of Cardinals from ecclesiastical office without the permission of the Supreme Pontiff. 333 Appendix V. Apostolic Letters in the form of a Bull, by which the Armenian province of Constantinople is united with the Patriarchate of Cilicia, and certain disciplinary matters are established. 386

[*Latin ed. p. 670*]

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clergy from their offices in the Church, granted by the Holy Congregation, to whom they are assigned. 506 Appendix XI. Concerning manual Missals and the reduction of perpetual Masses from pious endowments, a new question. 555 to legates: and also a celebrated Indult of Benedict XIII 440 Appendix VIII. Concerning the privileges of clerics who have not been initiated into the sacred orders 443 Appendix IX. From the Sacred Congregation and the Holy Office of the Inquisition. 563. Appendix XII. Numerous Decrees of the Holy Congregation of Sacred Rites, which were promulgated from the year 1856 until August 31, 1867, concerning which some preliminary remarks are made regarding the value of these Decrees.

[*Latin ed. p. 671*]

INDEX GENERALIS CONCLUSIONUM, QUAE IN PLERISQUE ACTIS HOC VOLUMINE RELATIS ADNOTATAE SUNT, QUARUM MATERIA IN RESPECTIVIS ACTIS AMPLE EXPOSITA, VEL DECLARATA REPERITUR. Eae autem conclusiones suis verbis ita comprehenduntur:

Altana (El Alto)
Patroni coelestes et titulares
Genuflexiones
Baptismus, quoad collationem
Indulgentiae, quoad evulgationem
Patroni, quoad administrationem
Benedictio cum SS. Sacraments
Praebenda
Theologalis mento
Praecedentia
Insignia pontificalia
Beneficium, quoad refectionem
Instituta pia
Praxis SS. Congregationum
Beneficium, quoad status
Institutio canonica
Preces variantes
Irregularitas, mutationem
Privilegia Clericorum
Bona Ecclesiae, quoad redemptionem
Ius patronatus, quoad dispensationem
Probatio factorum
Professio religiosa, quoad nullitatem
Canonici honorarii

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Ius patronatus, quoad subiectum
Canonici, quoad insignia
Reliquiae sacrae, immutatum
Canonizatio
Rescripta S. Sedis
Matrimonium
Cappellaniae
Restitutio, quoad bona et fructus
Matrimonium civile
Census
Seminaria
Matrimonium, quoad ritum
Sepulcrum
Chorus, quoad caeremonias
Missa conventualis
Chorus, quoad distributiones
Missarum legata, quoad reductionem
Synaxis sacra
Synodus provincialis
Chorus, quoad Iubilationem
Sodalitas SSmi Sacramenti
Chorus, quoad munera
Missa pro populo
Spolia Episcoporum
Chorus, quoad vacationes
Missa, quoad applicationem
Sponsalia
Consecratio rerum
Missa, quoad ritum
Stola
Contractus emphiteuticus
Moniales
Cultus
Obsequium Episcopis praestandum
Suppressio Regularium, quoad Decimae iura
Dismembratio paroeciae
Occurrentia et Concurrentia Officiorum
Templum, quoad demolitionem

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Unctio extrema
Decreta Generalia, quoad ritum
Unio Beneficiorum
Electio non solemnis
Ontologismus
Viaticum sacrum
Exemptio Ordinum, collatio
Voluntas testatoris
Exequiae
Parochus coadiutor
Parochus, quoad funera
Fructus Benelicii vacantis
Patrimonium sacrum
Fideicommissum abolitum

Altaria fixa, pides consecratam, sive non consecratam, in cuius medio lapis consecratus etiamsi amovi- Altaria quae dicuntur fixa duplici ratione bilis ponatur, ibid. intelligi possunt, vel per oppositionem ad al- Secundi generis altaria fixa ea dicuntur tare quod transfertur, vel per oppositionem quae lapidem cum suo stipite coniunctum ha- ad altare quod consecrationis solemnis sit in- bent, caeterasque servant conditiones, quibus capax, pag. toi, et p. 664. solemnis consecrationis capacia redduntur, ibid. Altaria primi generis vere et proprie fixa Indulgentiae vero, quae dicuntur altaris^ dicuntur, illa nempe quae structuram habent quae altaribus fixis universim adnectuntur, stabilem et immobilem sive cum suo fixo la- non adnectuntur propter solemnem altarium

[*Latin ed. p. 672*]

672 INDEX (consecrationem, but because of the place which it firmly occupies in the church, ibid. Therefore, it suffices to obtain an indulgence that the altars are simply fixed, ibid. The sign of having also been conferred is cited, ibid. In the conferring of Baptism to adults, it is not appropriate to use the rite designed for infants, 583 ad III. See also p. 623 ad VII. Baptism without a reasonable cause is to be avoided as if it were a personal tithe; all the more so if these are needed in the consecration of the matriarch, although they have not been touched, ibid. The altar can be consecrated in a church which has first been blessed before it is consecrated, 595 ad XVII. Relics, 649. The blessing with the Most Holy Sacrament, Relics, should be given with singing by the choir and others, p. 689 ad II. Regarding several abuses to be avoided in this blessing, see p. 595 ad XXII. 623 ad III, IV, V, VI. 651 ad VII, 656 ad XIV. Regarding the restoration of a Benefice. The burden is on him who possesses the Benefice to recover or have recovered, with the help of the Bishop or his representative, the goods of the Benefice

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which have not been properly alienated, even by force, if necessary, p. 411. Therefore, unless necessity dictates, there is no place for the suspension of a canonical institution, so that revenues are not paid, ibid. in the restoration of the Benefice, ibid. Traces of this ancient discipline survive in several places, especially in Italy, p. ibid. Nevertheless, given the evolving discipline of the Church and the nature of the canons, it is not foreign, given the circumstances, that those particular churches, which have a baptismal font, are provided with it, provided that equal reasons exist and that the font is maintained, ibid. A simple cleric, although he has voluntarily and for a long time relinquished his clerical habit, can nevertheless be nominated to a Benefice and obtain it, if he is prepared to resume the clerical habit, p. 41 ad a. Parochial churches which are not baptismal cannot demand a baptismal font by right, unless there are legitimate reasons which suggest the erection of the font, 518. Such reasons are reduced to a grave inconvenience that the parishioners must suffer in bringing the newly born to the baptismal church so that they may be washed with the sacred ablution, ibid. Once the erection of the font has been granted for legitimate reasons and the rights of the matriarchal church are protected, the remaining rights of the church are to be observed, ibid., while those Benefices are being disposed of, p. 368. See JUSPATRONATUS MUTATUM, QUOAD SUBIECTUM IM-

[*Latin ed. p. 673*]

INDEX G HERAUS. 673 The goods of a church, with regard to redemption, are very closely related to canonization. In the public and equitable administration of the goods of the Church, which are presented for consideration, these goods can be redeemed, under the conditions prescribed by ecclesiastical authority, page 380.

Chaplaincies.

Although the obligations of chaplaincies, which are subject to the conditions of benefices, must be fulfilled according to the laws of their foundation, nevertheless, not all reasons for chaplaincies are entirely valid, especially those of laymen, whose chaplains are not removable by ecclesiastical law, page 915. For chaplaincies of the first kind have a permanent place and office in the Church, established by the formal authority of the Church, from which a cleric cannot depart without a legitimate cause approved and admitted by the same authority; nor can he be removed except for reasons established by law, through the proper legal process, ibid.

In this matter, upright men must be sought out, so that no double harm is done to the legitimate possessor, ibid.

Honorary Canons.

Honorary canons are instituted in many chapters in the present age to increase the divine worship and to adorn the Bishop's senate, and are created by the Bishop with the consent of the Chapter, or conversely by the

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Chapter with the consent of the Bishop, page 138. These honorary canons have a place in the choir after the titular canons, whatever name these are called, page 14. They wear the vestments that the last titular canons wear, so that they may distinguish themselves by their order.

Second Kind of Chaplaincies.

Chaplaincies of the second kind are reduced to pious legacies, by which heirs are burdened to fulfill the will of the deceased, page 96. Therefore, not all the laws that apply to chaplaincies of the first kind can be applied indiscriminately to chaplaincies of the second kind, ibid.

Pious Foundations.

Pious foundations, which do not constitute ecclesiastical benefices, and which may have many forms, are governed by a twofold rule, namely, by the law of the foundation, and by the common law, insofar as it does not contradict the will of the legitimate founder, page 457.

Although it is not foreign for laymen to possess a chaplaincy, upon which a burden is placed to celebrate Masses and perform other offices established by the testator, nevertheless, if the testator requires a clerical quality, it cannot be possessed except by a cleric, page 370. This is accomplished through a new ordinance established regarding this clerical quality, page 269, and through a judgment regarding the ecclesiastical cult not exhibited, issued by the Ordinary or a delegate from the Ordinary, which must be confirmed by the Apostolic See, ibid. See CULTUS.

Concurrent Causes.

Sometimes, the Roman Pontiff, in certain circumstances, grants a dispensation for a time, ibid.

Census.

A census, which has had many forms, after the celebrated Constitution of St. Pius V. in places where it is in force, consists of a certain purchase of the annual fruits, which are taken from the Acts, vol. III, section XXXVI, 43.

[*Latin ed. p. 674*]

674. Regarding land held under lease, if it yields fruit, page 373. If the lease is terminated, the right to receive the fruits or rent is lost, ibid. The seizure of land is equivalent to the termination of a lease, provided that the hope of reclaiming the land is lost, ibid. In the termination of a leased property, the creditor of a mortgage is not protected, page 472 and St. 4. Even if the lessee is excused from absence due to illness or studies, this period of legitimate absence is not usually counted within the forty years of service, except for absences granted due to official duties, which are counted by days and hours, page 472. Regarding debts owed to creditors on the debtor's property: Even if this period is completed without the debtor's fault, any creditor's right is forfeited, ibid. Concerning the choir in ceremonies: Greetings, incense, etc., in the choir, should begin from the side

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where the more important person is present, page 596, section XXIX. Concerning the choir's duties: Greetings in the choir should not be omitted, page 368. Cathedral chapters, which were established through the accumulation of simple benefices, are obligated to perform the services of the major week, except for the office of Feria VI, from the adoration of the Cross to Saturday morning, ibid, section XXXI. Benefices connected with these chapters are also held with the same obligations, see also, page 594, sections V and VI, and 647, sections XI, 651, sections VIII, XIII, XIV, 656, sections II, III, 656, sections VI and following, 659, sections II and III, 661, and 664. However, these choral duties may be performed with the Apostolic authority, which alone governs common law, according to the circumstances, page 369. It is considered an abuse for cathedral canons who are unduly absent and are not penalized by at least one-third of their income, page 467. Concerning vacations: Although the Council of Trent prohibited chapters from granting vacations to those bound to the choir, it allowed vacations in chapters where the canons receive pensions from the civil government, provided they are bound by longer service, either by statutes or custom, page 467. Therefore, with this prohibition of Trent in effect, a vacation from the choir can only be obtained with the indulgence of the Roman Pontiff: This indulgence, which is granted as a reward for choral service, is not granted to those who are not deserving, for reasons other than those mentioned, ibid. Concerning the consecration: Chalices must be re-consecrated only by the Bishop, with anointing, page 568. The bell, which serves to announce sacred functions, must be blessed by the Bishop with anointing, page 568.

[*Latin ed. p. 675*]

INDEX: A cauldron of iron can be blessed, page 602. MARTYRS: Those who were killed for hatred of the faith, the consecration of sacred oils must not be performed on the fifth day of the Greater Week before Easter; it is to be performed in honor of the cult of the faith, or of martyrdom; nor were infants excluded from the glory of martyrdom and publicly venerated, ibid. Missa Conventualis, page 576, II; compare also, page 628 in Cadurcen, and page 660, IV and V, 663, etc. Such customs are proven by the very nature of the things which they demonstrate, and by which legitimate customs, according to their own character, must be proven, ibid. However, the signs of ecclesiastical worship, which are used by canonized individuals, should not be confused with the signs of private cult, or of veneration of great esteem, which are shown by the faithful out of private piety to some Servant of God, page 269. Although a church may often give its goods to others in emphyteusis, there are nevertheless cases in which these same goods are received in emphyteusis, page 429. The Holy See does not tolerate images of men who died with a reputation for sanctity or martyrdom, in colored glass windows with which the church windows were adorned, page 638. In contracts which, due to a lack of documents, cannot be certainly defined

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as to their nature, the Holy Congregation, in order to prevent disputes, readily approves equitable agreements proposed, page 430. It is fitting for pious places to redeem those canons whose legal nature is unknown, and for the parts of the land which are burdened by a canon to the advantage of the church to be known, page 495. Candles made of wax cannot be used in the church, page 600. Silk vestments of the color yellow cannot be used in place of the color white, page 618. Although the Holy See, in order to assist the piety of the faithful towards their saints and to obtain suitable assistance for local needs, may repeatedly elevate or extend the rite of the saints; nevertheless, it does not usually come to a decision regarding a universal elevation of the rite, unless after a properly conducted auction; although the price offered may appear to be very high and just, ibid. For bidders freely compete, not because of the real value of the thing itself, but because of the useful consequence of the thing, ibid. The Holy See very rarely admits innovations in liturgical matters which are contrary to the custom firmly established in the Church, ibid. It has held in very high regard long-standing or centuries-old customs by which the Christian people have venerated some Servant of God as Blessed or Saint, page 264. And page 574 and 611. Such long-standing or centuries-old customs of veneration are to be held in honor, or concerning the administration of the Precious Blood and Body of the Lord.

[*Latin ed. p. 676*]

676 INDEX GENERALIS. Those who are to be ordained must exhibit the sacred sign, whether of the priesthood or the diaconate; nevertheless, they are capable of performing the sacred functions, including the wearing of the dalmatic, so that the deacon can administer the sacraments. Dismemberment of the parish. The dismemberment of parishes cannot be done without a legitimate reason and without external inducements, page 362. Although it seems more appropriate for the deacon to hand the Most Holy Sacrament to the bishop celebrating at the altar during the procession, nevertheless, since not all acts of the episcopal office are described in detail by the ceremonial, and since there is no general decree of the Holy See that accurately determines this, both opinions can be maintained, page 362. However, in practice, the opinion that is favored by the observance in each church should be followed, page 596, see also page 596, XXVI. The Most Holy Sacrament cannot be reserved in multiple altars; nor can it be exposed for public adoration without the permission of the bishop, page 648, XIII. It is not necessary for the consent of the parish priest and the people to be sought if a new endowment and foundation is made, provided that it does not cause a temporary loss to them, page 648, XIV. Regarding the manner of fulfilling the mandates in the Holy Mass, see page 651, X; page 657, XIX. Tithes. In matters concerning tithes collected by the parish priests with the obligation of a portion to be paid to the bishop, it is very important to de-

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termine whether the bishop receives a simple share or a fixed, unchanging portion based on an agreement, either tacit or solemn, page 255. In the former case, if the amount of tithes received by the bishop decreases, the portion he receives also decreases; in the latter case, it does not, page 255. An ancient and well-established custom of receiving a certain portion is considered equivalent to an agreement; such a custom is a fruitful source of good morals, page 255. However, justice does not allow the bishop to receive the same portion if the parish priests and contributors have not been able to collect it, page 255. The parish priests must use all diligence to summon the debtors of tithes to court and to have them condemned by the judgment of a judge, page 255. The Feast of the Immaculate Conception, which occurs on the second Sunday of Advent, should be transferred to the second weekday, provided that it does not fall on a feast of higher rank, page 628. The Feast of Saint Patrick should be observed throughout the Church with a double minor rite, page 626. Compare, another decree, page 485. The Feast of Saint Angela Merici should be celebrated throughout the Church with a double minor rite, page 632. The Office of the Most Sacred Heart of Jesus must be celebrated annually throughout the Church with a double major rite on the first Friday after the Octave of the Most Holy Body of Christ, page 486, in the annotation.

[*Latin ed. p. 677*]

INDEX: Election not solemn. GENERAL. 677; it can occur through a memorable custom. When the conditions to be observed in any duly approved election are inquired into, and it is a question whether such an election is, by its very nature, to be considered solemn, a distinction must be made between a solemnly and canonically held election and other elections of lesser importance, page 237. In a solemn and canonical election concerning the presentation of ecclesiastical prelates, all prescriptions approved by forty days are considered sufficient, but these must be strictly observed, which are established by positive law, unless a legitimate custom provides otherwise, page 237. If there exists a tranquil and memorable custom or a constant prescription of forty days in other elections of lesser importance, only that which the very nature of the election seems to require is considered acquired by law, or that which has been possessed, page 238. Apostolic privileges, although not of themselves sufficient to demonstrate exemption, can nevertheless provide a title for prescription, page 237. Even if an election is held in such a way that one is chosen among many who may have shown greater piety, it may not always seem equitable to others in certain cases; however, if there is a statute or legitimate custom that confirms this, such an election is duly held, page 237.

Funerals. A parish priest and other priests, if they do not duly chant at funerals, do not produce their proper fruits, page 577.

Exemption. Concerning exemptions against the jurisdiction of the

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Bishop, the general principles of law are found in the Decrees, p. 581 ad I. H. and 1H. 153 ad F. 595 ad XXI. 602, C17 ad III. 651 ad IV. V. and V I., 657 ad XV. seqq. 658 ad I. and II., which regulate such cases, as well as in Canche: he who claims an exemption must prove it, page 85. This exemption is of three kinds: one is that of Abbots or Prelates of lower rank, who are said to be of "Nullius Diocese," having their own territory, and who, except for the power of their order, have ordinary jurisdiction over the clergy and people, page 85. The second kind are lower prelates who, although they are located in the territory of a Bishop, are nevertheless exempt from the Bishop and exercise some further jurisdiction over their own clergy or people, page 150. The third kind are those who simply enjoy an exemption from the Bishop's jurisdiction, without having any jurisdiction over the clergy or people, page 85.

Exemption of this three-fold kind can be demonstrated in two ways: either by an Apostolic privilege, or by custom or prescription, page 85.

Exemption of the first kind cannot be demonstrated without an expressed Apostolic privilege, page 85.

In common law, such fruits belong to the church of those same goods, or to the benefit of the successor who will legitimately hold the benefice, or to the benefit of the universal Church, according to what has been determined by the supreme authority, or by legitimate custom, page 85.

[*Latin ed. p. 678*]

678 INDEX of vacant benefices, or those pertaining to successors, ibid. NERALIS. Expenses, up to the ninth day of Holy Saturday inclusive, page 581 to V. 594 ad I V. Due to utility and necessity, such expenses are incurred, especially from (such things as), Indulgences concerning their promulgation. Collectors or Assessors appointed by the Holy See for the benefit of the Holy Missions, ibid. Among the fruits of vacant prebends are included those that are temporary in nature, difficulties in obtaining and properly understanding authentic documents; difficulties in ascertaining which dispensations, whether of time or otherwise, have been granted or have lapsed or been abrogated; and finally, a lack of a just norm for distinguishing true indulgences from false ones, page 151. A trust fund abolished. If there exists a civil law that governs substitutional trusts, several problems may arise if the trust is connected with a pious cause, page 532. In resolving these issues, the following general criteria must be kept in mind: The collection of indulgences is easily corrupted and often truly is corrupted, page 105. Therefore, this province of the issuance of indulgences has rightfully aroused the particular vigilance of the Apostolic See, so that abuses, as far as possible, may be removed, ibid. Whenever a pious foundation or church is called by the name of a testator, and those descending from a certain family are called usufructuaries, then hereditary goods remain with the pious foundation or church, unless it appears to be almost futile to give

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the church the name of the testator, as if it had been given to redeem the trust fund, ibid. Whenever a trust fund has been established, which, in the ultimate seat, lacking a designated line of succession, must consist in a pious foundation or church, the hereditary rights of the church are not prevented from being transferred, so that the heirs, although subject to the distribution of such goods by civil law, may not divert hereditary goods, ibid. In any case, hidden and concealed debts must be included among the pious legacies that are connected with the trust fund, page 108. In the publication and execution of these, the following is found among such decrees: Those who have obtained general concessions must kneel, under pain of nullity of the grace, a copy of such concessions must be submitted to the Secretariat of the aforementioned Sacred Congregation, ibid. The same is not due to a foreigner, p. 596 ad XXIV. Pontifical insignia. During the octave of Easter, it is necessary to kneel before the Cross from the beginning of adoration on Holy Saturday. The privilege of the clergy, by which the words of that same privilege are restricted.

[*Latin ed. p. 679*]

INDEX G NERALIS. concerning the bull and Constitution of Pius VII. which is referred to, page 569. 679. However, a suitable dispensation is repeatedly granted to the presented person who is legally incapable, if other reasons exist, although canonical laws may concur, provided that these have not acquired the same right by nomination, ibid. Also, see page 398, 631, 634. Regarding pontifical functions, see page 639. Pious societies for charitable purposes are to be governed according to the statutes of each, page 491. As the Holy See does not grant grace to the detriment of a right acquired by a third party, so conversely, it does not prevent that which would render someone less capable, but rather, it does not prevent him who, by virtue of his nomination, excludes others, ibid. Pious congregations, which are established to foster the piety of the faithful through useful means, should be subject to the prudent dispositions of the Bishop, page 492 and 613. These should not be confused with lay chaplaincies, which are benefices of lay patronage. For ecclesiastical benefices are not considered to belong to others than the Ordinary, but these benefices are truly ecclesiastical, page 233. Ecclesiastical benefices of lay patronage or private patronage are subject to their own nature and are not subject to the reservations of the Apostolic Constitutions, ibid. This Tridentine disposition should be understood in such a way that those who enjoy the right to establish in benefices erected before the Council are not considered to be private individuals in them, ibid. However, private individuals are considered to have this right if they act with the authorization of the establishment in benefices of care of souls; nor in the Prebend of Theology and Penance, according to the Constitution of Benedict XIII for Italy, ibid. However, in this transition, it can remain, to some extent, lay, if it is established that the

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Founder, by the established transition, understood that the law by which he was governed in the exercise of his rights, should remain, ibid. Especially if it is a question of excluding reservations, which exclusion is not said to be against the Holy See, but according to the law and the ordinary status of benefices, subject to certain conditions, p. 529. The same conditions are often determined with regard to the reason for the adjuncts; especially considering the quality of the defect, and the nature of the place where the Priest performs his ministry, ibid. Regarding the right of patronage with regard to dispensation, the Holy See grants a suitable dispensation to the presented person who is legally incapable, when others who are equally capable can be presented by the same right, page 301. When the status of a collegiate church is changed to a cathedral, the rights of the patrons are adapted to the new, more noble status of the church, as they should be, and as this change requires, page 301. The subject of the patronage changes, page 301. It is not uncommon for a dispensation to be granted regarding irregularity, for the sake of legitimate reasons, to a priest who has lost the use of his left hand, but the status of the benefice is preserved, subject to certain conditions, ibid. Clerics can be called to a canonry in a collegiate church, who have not yet reached the canonical age; however, this cannot take place in cathedral churches, even if the Tridentine law is not opposed, page 301.

[*Latin ed. p. 680*]

680 INDEX Marriage. GENERAL. Whenever the term, by its own nature variable, in the case of stipends for the clergy, which are valid presumptions for the existence of a bequest, is not expressly stated and defined by a proportional law, the other terms relating to the marriage must also be changed in proportion, so that the same validity remains, although it may not be entirely apparent, page 408. It is not easily admitted in marriage cases that there is a defect in consent, page 228. The Conventual Mass must not be separated from the choir, see I, also page 663, III. Although accusations against the celebration of Masses are easily received, the legate must repel them with respect to the reduction of the accusation, especially if the accuser is found to be motivated by greed, page 464. Legates of Masses, whose funds have been legally defined by the testator, cannot be legally prevented from marrying, even if it appears to be done without consultation, ibid. The accuser must be repelled if he does not prove his action against the contracting parties, ibid. If the funds are reduced, the number of Masses must also be reduced, maintaining the proportion according to the current manual alms or synodal tax, page 376. Nor should other obligations, which may be associated with the Masses, be neglected in such a reduction, page 376. Civil marriage, as they say, is marriage in places where the Decree of Trent is not in force, which, if not preserved, is called civil cohabitation in Rome, page 245. Although the children born of it are considered ille-

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gitimate, as if born of concubinage, it is necessary that the pastors should conduct themselves in their baptism as they do with children born of concubinage, according to the legitimate customs of the place, ibid. Although it may be increased by the Ordinaries according to the needs and customs of the place, it cannot be reduced according to the tax of the legates of Masses without Apostolic permission, page 420. If the testator, leaving a bequest for Masses, designated funds for a chaplain, it is not within the power of the heirs to collect the fruits from those same funds, even if they are sufficient to fulfill the obligation of the Masses or the bequest, page 474. Much less is it within their power to alienate those same funds, and if they are alienated, the marriage is valid in terms of its form. The nuptial blessing can only be given in the Mass, page 616, I, and 624. Indeed, even in the Mass, if the spouses have already been living together, page 616, II. The prohibition of marriages during Advent and Lent should only be understood with respect to the Mass for the betrothed, page 616, III. If the heirs refuse to fulfill the obligation, the Bishop should recover the goods and keep them safe, for they are goods left for divine worship, ibid. If the obligation is impossible or difficult for the heirs, at least other funds should be substituted, equivalent to those alienated, ibid. However, even if the heirs have obtained some indulgence in the recovered funds, they do not cease to be worthy of the merits of the Holy See in the matter of the proper celebration of the Conventual Mass, ibid. Serious burdens placed on a benefice, violently imposed, provide grounds for obtaining from the Apostolic See a temporary reduction of Masses, page 413. Agreements or conventions, being immutable between the parties, are subject to the laws.

[*Latin ed. p. 681*]

INDEX (GENERAL). Mass for the People. The obligation to offer a Mass for the people cannot be excused by custom, p. 98. 681. During the celebration of Mass, a cross and other sacred vessels, even if valuable, must be present, p. 595 ad XL. The same obligation is both personal and applies to the small chalice for water, so that its use is not prohibited even if a canonical cause or impediment exists, p. 601 ad IV. Missionaries, if compelled by necessity, may be dispensed by the parish priest to offer the Mass for the people through another, ibid. adhibere pro cereis candelis in sacrificio Missae. The same obligation applies to parish priests on Sundays and feast days, and cannot be transferred to other days unless for a legitimate reason, ibid. This custom is not approved, namely, to change the intention, so that a Mass, which on feast days is solemnly celebrated for certain faithful, is offered for the people; and for those same faithful, oil from a mixed substance is used, p. 603 ad II. The use of two chalices is permitted for special reasons, when the priest celebrates two Masses; regarding this, instructions are given concerning the purification of the first chalice, p. 604. Masses for the Dead cannot be celebrated with the Most

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Holy Sacrament exposed, p. 608. In the case of an anniversary Mass for the election and consecration of a Bishop, another Mass should be celebrated and offered, ibid. The parish priest is not excused from offering the Mass for the people, even on abrogated feast days, p. 568. The obligation of offering a Mass for the people is sometimes fulfilled by a Mass of Supplication, p. 605. pag. 615 ad I. For all within the diocese, it is obligatory to commemorate the anniversary of the election and consecration of the Supreme Pontiff, p. 615. The use of singing the Mass with a Deacon and Subdeacon is not tolerated when others are lacking to serve, 647 ad H. See also ibid. Mass concerning application. other abuses to be avoided at I. III. IV. V. Ecclesiastical Institutions. In the case of a chapel with a celebration, the obligation of application should also be understood, unless the contrary is stated, p. 527. other abuses to be avoided at XV. and X V I . 656 ad VII. Mass concerning rite. Sacred vestments from the altar are not to be taken by priests celebrating, p. 584. Concerning Masses celebrated during the time of the Forty Hours prayer, see p. 586 ad IV. Nuns. Nuns and other pious women cannot perform corporal acts, etc., even if a license from the Bishop intervenes, p. 596 ad XXX. In the solemn Mass, the sprinkling with blessed water must be performed only by the celebrant, aloud, p. 587. See also p. 656 ad IV. and V. Nuns can renew their Profession Vows at fixed times before the priest, before receiving Holy Communion, 657, 659 ad II., p. 595 ad XIX. It is not permitted for priests solemnly celebrating to add a priest assisting, p. 583. Two servers are permitted in a Mass that is not entirely private on more solemn days, p. 594 ad VII. A priest, before distributing Communion to those present at Mass, may have a sermon delivered to the people from the same altar, with the consent of the Bishop, p. 595 ad X. Obedience to Bishops. Canonically assisting the Bishop celebrating, they cannot wear a biretta on their head, p. 632. See also p. 594 ad I I . and III. and 596 ad XXIV. 656 ad I. 687 ad XXII. and XXIII. Administrators or Vicars Apostolic do not enjoy the same honors as those enjoyed by their own Bishop, p. 578.

[*Latin ed. p. 682*]

682 GENERAL INDEX. An Auxiliary Bishop (coadjutor with titular see), by common law, those appointed as assistant pastors, whether by pious endowment or parish stipend, may be removed from Usküb, but not without just cause, representing the bishop at least in many matters, page 628. See also what we have noted, page 312, 81S. See under the word GENUFLEXIONES. Assistant pastors may assist in the care of souls in Usküb, page 457, and in the performance of offices. By canonical equity and ecclesiastical order, it is not fitting that chaplains or assistant pastors be removed without any just cause: for such removal without cause often damages honor and disturbs order, page 457. See also pages 582 I, 587 I, 588, 595 XIII, 595 XV, 597 III, 601 I and II, 606, 610, 615 V, 616, 621, 623, 624, 632, 634, 635, 636, 639, 650 II. Regarding Ontologism. Concerning funerals. Although

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the distinction between parishes has been made from the earliest centuries of the Church and reiterated by the Council of Trent, session 24, chapter 13, concerning reform, that each parish has a pastor to whom the care of souls of all those there is specially entrusted: nevertheless, a reasonable custom that in some way derogates from this universal discipline is not approved, page 133. It is considered reasonable to have a custom legitimately established, whereby canons of the cathedral church administer the last sacraments to their colleagues, perform funerals, and bury the dead, page 205. Certain propositions of Ontologism, which have been taught by some Catholics in Catholic schools, have been presented to the Holy See and most carefully examined and judged; they are not safe, page 205. It is wrongly said by some Ontologists that these propositions were rejected because they express pantheistic doctrine, or because they were accepted and distorted in a pantheistic sense: in this case, they would not have been merely rejected as unsafe, but entirely condemned or noted with a more explicit declaration, page 206. Conferral of Orders: How the conferral of Orders should be celebrated in the Bishop's sacristy on Holy Saturday, page 576 I. See also page 596 XXVII, and also compare, as it contributes to the splendor of divine worship and to fostering fraternal charity among the canons who constitute the Bishop's and Diocesan Senate, ibid. You will find more on pages 653 and 654, and 658 I and H, page 648 I, 649 II and III. See Assistant Pastor. SEPULCHER. Sacred patrimony. Religious priests, although legitimately bound to assist pastors from their own order, are subject to the penalty of suspension if they do not have a suitable sacred patrimony to present to the pastor, page 535. An item that can be in place of sacred patrimony is a suitable pension paid by the monastery, even if it has a clause until provision is made, page 96. Also, a pastor or church administrator requires the approval of the Ordinary to preach the word of God, ibid.

[*Latin ed. p. 683*]

INDEX: New provisions concerning ecclesiastical matters. Regarding ecclesiastical affairs, one finds that the obligation to pay certain pensions to clerics received into the monastery, or to the collegiate chapter, does not cease, unless an ecclesiastical authority intervenes, which will substitute the new provision in place of the former, either wholly or in part, page 653. See SYNOD PROVINCIALIS. Practices of the Holy Congregations. Celestial patrons and titulars. The titulars of a church are not always the same as the celestial patrons; the Holy Congregation also, in cases of economic dispute, ordinarily does not grant a new hearing after a decade from the date of the resolution, and the celestial patrons of the place, page 579. The patron of a cathedral church must be celebrated by the clergy outside the city with the same rite, page 582. If just causes intervene within that time, a new hearing may be obtained through a plenary Congregation, which will

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judge the same causes, page 595 to XI, 602 to I and II, 610, 616, to II, 637, 650 to I, and II, 617, 618, 624, page 659. Decrees of the Holy Congregation of Rites, which declare a law to have, by itself, the force of general law, do not apply if they appear rather to be temporary and special provisions, page 563. Prayers varying. Prayers, whether corrected from a variant reading or collected for variations in the rite, can be found in the decrees, page 581 to I, 583 to I, 587 to III, 594 to I, 595 to XVIII and XX, 597 to II, V, and VI, 601 to III, 609, 638, 645 to XVII and XVIII, 647, 651. The dissent of patrons is not required if the canonical causes for the alienation appear to warrant it, page 659.

Patrons regarding administration. Although patrons cannot interfere in the administration of a benefice, it is fitting that their opinions should be heard regarding its alienation, page 495. It does not matter whether one is dealing with ecclesiastical goods, or rather with lay goods, which have been left to the church for a pious purpose, page 495. The dissent of patrons is not required if the canonical causes for the alienation appear to warrant it, page 659.

Privileges of Clerics: Theological. In Italia, the theological concursus is held according to the law of Trident, which ordains that it be conferred only upon suitable persons, after an experiment of their suitability, page 238.

Proof of facts. In questions which consist in fact, in order that they may be properly defined, the authority of witnesses must be considered first, so that their testimonies may be justly estimated, page 125. Generally, solemnities which are prescribed for the proper performance of an act are not to be considered as having been observed; but he who maintains the validity of the act must show that they were observed, page 408.

Precedence. Questions of precedence, which arise repeatedly in the performance of sacred functions, must be settled by some mandate or decree, which preserves the rights of all, according to the procedures of law, page 125. Generally, solemnities which are prescribed for the proper performance of an act are not to be considered as having been observed; but he who maintains the validity of the act must show that they were observed, page 408. Custom, or quasi-possession, is of great help in such questions, page 309 and 600.

In a marriage contracted before an external priest, the faculty delegated by the Bishop cannot be presumed, but it must be shown by him who maintains the validity of the marriage, page 408.

In a provincial synod, those bishops who were consecrated first precede, page 625.

[*Latin ed. p. 684*]

INDEX GENERALIS. Such a demonstration, however, must follow this distinction, which the Holy See has adopted and which must be followed,

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so that things can be demonstrated, especially concerning the various effects of the sacred Liturgy, ibid. It can be shown in two ways: either through testimonies or documents that testify to the fact; or through other facts that could not be explained, unless the true fact that we are trying to demonstrate is assumed.

Rescript of the Holy See.

Rescript of the Holy See, concerning the religious profession, regarding its nullity. If a religious, impugning the validity of his profession, commits an act of conscience against the Ordinary, he must be referred to the Ordinary's judgment (unless a new canonical cause exists that would prevent the execution, page 524 and 318). A cause based on violence and fear, after five years, is not to be heard, unless it has arguments that would make it foresee a favorable outcome for its cause, page 125.

With these arguments presented, the Holy See concedes the benefit of restitution in full, that is, the faculty is granted, even after five years, to have the cause heard before its own judges, according to the Benedictine Constitution, provided that, unless the Holy See undertakes to immediately examine the entire matter through a regular process in the court, ibid. Not every act of violence and fear, however atrocious, renders a profession null; but only that which is directly shown to have been used to extort the profession, page 126. However, the same fruits must be restored whenever bad faith begins, that is, from the time of the fruits of the good and just, ibid. Dispensation, ibid. Flight of a novice from a monastery does not always interrupt the novitiate, especially if the fundus (property) is in dispute, the same taxes being applied, ibid. A serious doubt about the invalidity of a profession provides grounds for obtaining restitution. In the restitution of an alien fund that has been possessed in bad faith, justice does not require that the years perceived must be continuous in order to validly profit, ibid.

The Fathers of Trent, establishing the erection of seminaries in each diocese, arranged everything so that the seminaries would be under the authority of the Bishop, who, according to the prescribed law, with the help of a secular cleric, would direct the seminaries in the diocese, page 61.

Although the bodies and parts of the bodies of martyrs and heroes of faith are to be held in veneration as sacred relics; nevertheless, a distinction is made between notable and less notable relics, page 272. This distinction must be repeated, either with greater or lesser veneration, as nature leads, so that the faithful may have a greater or lesser devotion towards the Holy, with the more or less important parts of the sacred relic, ibid.

Therefore, seminaries cannot be transferred to Religious families without Apostolic permission; and if such permission is granted, it is granted in such a way that the authority of the Bishop is expressly preserved, ibid. However, the question is, whether by the tradition of a seminary to a Reli-

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gious family, any...

[*Latin ed. p. 685*]

INDEX GENERALIS. 685, concerning parochial rights, the rights of the parish, although their own, and those of their heirs, remain in their inheritance, even if injured or lost, there. considered to have been, who legitimately established them, page 319. Indeed, two things conflict: the common law granted to Parishes, and the privilege of Regulars, from which, those who serve them and reside within them are exempt from common jurisdiction, and owe obedience to them, and Christian custom strengthens the practice of burying the bodies of the dead in sacred temples, within their walls, and the Church, by its own authority, allows certain families to establish tombs for themselves within those same walls, ibid. It seems appropriate that the laws of the Council of Trent provide that seminaries be established and maintained by Regulars, and that families, properly constituted, may reside within those walls, but that these families, living within those walls, are exempt from the parochial jurisdiction at least in the administration of the sacraments, ibid. The laws of ecclesiastical immunity and liberty are included, which, by their very nature, repel all foreign servitude from sacred places. Tomb, page 320. Although, throughout the various ages of the Church, and with various customs, the places designated for burying the bodies of the faithful have varied, nevertheless, the right of the faithful to establish a sacred burial place for themselves remains, page 44. The right to bury, whether it pertains to the Parish Priest or to others, and which, when it comes into conflict with the right to establish a burial place for oneself, must be celebrated with order and decorum, although the people may throng together, and yet, completely silence must be observed, page 45. Provincial Synod. However, the right of associating the deceased with the established burial pertains properly to the Parish Priest, ibid. Just as the ecumenical Synod is the juridical representation of the universal Church of Christ, so the provincial synod is the juridical representation of the provincial Church, page 313. Therefore, in the provincial synod, all those who are suitable may or should participate, who, for any reason, have been improperly assigned to a burial, whether within or outside the parish in which they died, in order to legally represent the provincial Church, page 813. Such suitability is defined either by law or by custom, page 313. The Parish Priest, in whose parish the deceased died, has the right to associate with that burial, ibid. Public cemeteries, recently introduced, do not in any way injure the rights of churches and the faithful, page 305. Concerning funerals, see page 65, I and II. Although, by imperial law, tombs, which used to be established on private lands, were considered to be religious and therefore outside of commerce: Abbots and others, who exercise Episcopal

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jurisdiction,

[*Latin ed. p. 686*]

686 GENERAL INDEX. soldiers in the province possess, and those, if exempted, having once chosen that province for their betrothal, the nature of perfect betrothal consists. Others finally come, who, marked by ecclesiastical dignity in the future marriage among those capable of it, page 314, with a serious and deliberate promise and reciprocal promise established in the province, are to be contracted, page 40 and 461, and also the Chapters of cathedral churches, a promise on one side, and a simple acceptance of the promise on the other, do not constitute a perfect betrothal contract, which requires the obligation of both parties, ibid. Therefore, other dignities, even bishops, who may happen to be found in the province, whether they are dignities of the province, or whether they represent any provincial dignity, do not have the right or the office of convening a Synod, page 314. Such dignities, although easily admitted to the Synod, cannot nevertheless give a definitive vote, unless all those who have by their own and native right the right to give a vote consent, page 314.

Sodalitas of the Most Holy Sacrament. Nor does this obligation cease for that reason, because the man subsequently puts himself in a condition that civil law protects by civil marriage, page 304. Sodalities of the Most Holy Sacrament, whose establishment in each parish is highly commendable, enjoy special privileges above other Sodalities in processions, page 304, in which the Most Holy Sacrament is carried, page 308. Such valid betrothals, contracted with a condition, if the condition is not fulfilled, are resolved into nothing; the second, however, if the injunctions are neglected, do not become void, although the negligent fiancé may be worthy of reprehension; for the pacts added do not always affect the substance of the contracts, page 461. Such negligence in these agreements, with the addition of a serious disagreement of minds, may constitute a cause for dissolving the contract, by Apostolic authority, saving, however, the indemnity due to either fiancé who has not fulfilled his promise, ibid.

Vestments. The stole is not to be worn except in the collation, ibid. page 577.

The case is to be excepted, in which sacred vessels, necessary for paying the alien debt that the deceased bishop contracted, are entirely used for the preparation of the Sacraments, page 577.

The vestments do not pass to the treasury of the Camera Apostolica where the rights of the Camera Apostolica are in force, but remain the property of that church or churches to which the bishop successively presided, according to the Constitution: Quum illud, ibid.

[*Latin ed. p. 687*]

INDEX GENERALIS. 687 S. C. admitted, however, a certain contrary

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custom regarding the restoration of temples in the diocese of Arequipa, p. 660. It pertains to those to whom the temple immediately belongs. The stole must be used in the handling of the Most Holy Sacrament, p. 539 et seq. However, it can be supplemented by other vestments in processions on Feria V (the fifth day of the week) in the celebration of the Lord's Supper, p. 596. Most especially if the temple has been restored and is connected with this obligation, ibid. In the absence of grave reasons, one should not proceed to that destruction which would result in detriment to the divine worship and the piety of the faithful, ibid. The stole of double color can be used in the administration of baptism, adapted according to the days of the week, p. 623. In administering the Extreme Unction, a stylus or silver rod should not be used, unless absolutely necessary, p. 583. The essence of a Regular Order does not consist in the fact that a priest administers the sacred Viaticum to the sick when they are found to be in danger, p. 611. The unction of the loins must not be omitted, p. 614. See also p. 623. These things pertain to the integrity of the Regular Order. This integrity, if it ceases due to violence, causes those privileges granted in view of that same integrity to cease or be suspended, ibid. and p. 663. However, if the essence of the Order remains, the Holy See, for just reasons, intervenes to help the Regulars and confirms those privileges which, with the aforementioned condition, they may be able to maintain, ibid. Although the sacred Viaticum cannot be carried, covered or uncovered, without the permission of the Holy See, p. 595. The rights which belonged to the family are indicated, which a deacon carrying the Viaticum can exercise in the absence of a priest, p. 611. It is not permitted for the celebrant to carry the Viaticum within the Mass in hospitals, etc., if carrying it would cause any inconvenience, p. 141. For the suppression by an illegitimate power has no legal effect, although, by accident, the exercise of rights may cease; it is also necessary that, due to the violent dissolution of the subject to whom those rights belong, the altar be removed from its sight, p. 636. After administering the Viaticum during the Mass, the fragments must be placed in the pyx, ibid. The will of the testator, which cannot be changed or tempered by law without Apostolic authority, p. 376. In the union of benefices, the will of the founders must be observed as much as possible, p. 420. One should not immediately proceed to the demolition of the temple, if there is only one reason, namely, that the temple is falling into ruin, even if it is not a parish church, p. 425. The will of the founders, whether expressed by themselves or by trustees, must be observed, p. 478.

[*Latin ed. p. 688*]

THE SOCIETY OF THE APOSTLES. In the past year, we have presented to our most esteemed Readers, with each issue of XXIV, a certain Program, concerning the founding of a pious Society, for the purpose of establishing, in Rome, a new and singular Seminary, for the honor of the Prince of the

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Apostles, for the good of the Catholic Faith. Furthermore, with the issue of the month of November, that is, after six months, we have included Appendix I, wherein we have inscribed the names of the first individuals who have undertaken the office of Promoters in the pious Society, and we have added certain declarations. Subsequently, in the leaflet which accompanies each issue, we have indicated the progress of this pious work, which has proceeded to the point that, according to the Program, we are now most gratefully obligated to begin the Seminary as proposed: therefore, last month, we invited the Promoters to propose candidates so that a preliminary selection may be made. After a few months, we will provide Appendix II, wherein, in addition to the names of new Promoters, we will describe the state of the Society and its affairs, as well as provide a complete accounting of the Oblations and Oblators. Our Readers will readily see that a wide and open path exists for cooperating, especially for Ecclesiastical Men, and that an easy means has been presented to them, whereby they may promote the Christian name through their own efforts or contributions according to their ability.

[*Latin ed. p. 689*]

THE SOCIETY OF THE APOSTLES, ESTABLISHED FOR THE PROPAGATION OF THE FAITH AND CATHOLIC DOCTRINE IN A LATIN SEMINARY, TO BE ERECTED IN ROME, IN OBEDIENCE TO THOSE APOSTLES. Appendix 1. December 8, 1867. To the program, which was published while Rome celebrated the secular anniversary of the martyrdom of the Holy Apostles Peter and Paul, we have added the following, as a living monument. FIRST CATALOGUE. NAMES OF THOSE WHO HAVE Hitherto ACCEPTED THE OFFICE OF PROMOTER OUTSIDE THE CITY. The Most Reverend and Reverend Prelate, John Balma, Bishop of Ptolemaidensis, in the lands of the infidels. The Most Reverend and Reverend Prelate, Philip Manetti, Bishop of Tripolitanus, Apostolic Administrator of the Abbey of Sublacensis. The Most Reverend Lords (*), Vincent Raymond Pelegrina y Lopez, Canon of the Cathedral Church of St. Christopher of Laguna, in the Fortunate Islands, commonly known as the Canaries, and Synodal Examiner. Zachas Chrysostomus, O.S.F., Prior of the Most Holy Savior in Hungary. (*) In the present catalogue, we follow a chronological order, in which the names of the Promoters are recorded as they were received in Rome.

[*Latin ed. p. 690*]

— 2 — Girolamo Raphael, Parish Priest of the diocese of Albano Laziale. Aloysius Calezio, Priest of the archdiocese of Naples. Aloysius Scala, Priest of the same archdiocese. Caesar Gariboldi, Canon of the cathedral church of Ancona, and Professor of Church History in its seminary. Augustinus Pugnaloni, Parish Priest and External Vicar of the diocese of

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Ancona. Leonardus Zappavigna, Parish Priest of the diocese of Cremona. Iacobus Amadini, Assistant Parish Priest of the same diocese. Gerlandus M. Genuardi, Beneficiary of the cathedral church of Agrigento. Carolus M. Borgognoni, Doctor of Philosophy, Sacred Theology, and both Civil and Canon Law, Professor of the Institute of Canon and Civil Law in the archdiocesan seminary of Bologna. Iosephus Bracci, Canon of the diocese of Civita Castellana. Carolus Lupo, Priest of the diocese of Agrigento. Eugenius Luzzi, Archdeacon of the cathedral church of Spoleto, and Rector of the archdiocesan seminary. Aloysius Sartori, Canon of the cathedral church of Tuscania. Nicolaus Guerrieri, Priest of the diocese of Lucca. Thomas Coccanari, Canon of the cathedral church of Tivoli, Pro-Synodal Examiner, Doctor of both Civil and Sacred Theology. Antonius Cocumelli, Canon, Archpriest of the distinguished collegiate church of Saint Stephen in the diocese of Sora. Constantinus Desanctis, Archdeacon of the cathedral basilica of Albano Laziale, and Canon, Theologian. Tullius Sericei, Canon, Penitentiary of the cathedral church of Ancona, and Professor of Sacred Theology in the seminary. Petrus ex Baroni bus Leopardi, Canon of the cathedral church of Penne, Doctor of Sacred Theology. Carolus Mingaroli, Priest of the archdiocese of Bologna, in charge of receiving the Sacraments of Confession in the Conservat, of Saint Martha, in Rome. A promotion, which will be mentioned in another catalogue, while meanwhile he has fixed promises and offerings, by which three students in Rome may be assisted; each one of the number of Promoters can consider this.

[*Latin ed. p. 691*]

— 3 — If it is desired to identify a person who is deemed suitable according to the Program, so that, at the opportune time, in a new undertaking which we will announce, he may be suggested through an invitation, then a comprehensive account of the proposed person should be provided, so that, after a subsequent examination, and with due diligence, the first candidates may be selected. DECLARATIONS. We believe that what we are about to say will satisfy various requests for declarations or address certain difficulties. It should be known that, for many years, there has been a desire among many members of the clergy in *romano* to establish a College of *Italia* for foreign missions, as is evidenced by certain institutions in *Italia* and, indeed, by much larger ones in other Catholic nations, which are renowned for this purpose. However, as far as we know, there were two difficulties: the first was to identify, or easily recognize, those who were truly endowed with a divine vocation for going on foreign missions, so that it would not happen too often that, after the students had been educated and elevated by the expenses of the College, they would either approach the sacred missions with a less than zealous spirit, or even abandon the ecclesiastical service they had undertaken; the second difficulty was the immense amount of money required to establish the College. Nevertheless,

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there have not been lacking pious men who, as if foreseeing the establishment of this College, left certain bequests in their wills for this purpose; and at present, we know of two bequests, one of which amounts to 2000 *scudi* *romani*, and the other to 1000 *scudi* *romani*. When we, who write these Latin ephemerides, became aware of this, we considered that, through such ephemerides in particular, we could, on our part, contribute sufficiently to this desire, which we greatly cherish; but, given the circumstances of the present time, a more extensive and more useful approach is possible. These considerations were somewhat prompted by the actions of the impious, who, in their investigation of the Catholic Church, employ all their efforts and, through the association of minds and resources, easily carry out their plans. Would that all those who are called to the service of the Lord, whatever order of life they may embrace, would not, like the impious, be driven by fury – may it be far from them – but would, moved by fraternal charity and with due order, constantly strive, for the greater good of the Church, through their effective action!

[*Latin ed. p. 692*]

And so, in obedience to the Apostolic See (which at the present time is vehemently sought after by those who bear the name of Christ), we have seen erected in Rome a Seminary, which, although perhaps humble and small at the beginning, would gradually become very extensive; which, indeed, would receive students not only from Italy, but also from other Western regions: for the renowned College of Urban, dedicated to the Propagation of the Faith, receives students especially from the Eastern regions, as well as from other places of the infidels. But in order to assign to this Seminary (which in the meantime can be called the Latin Seminary) a particular purpose, we turn our attention to the present needs of the Church: it has been sufficiently demonstrated that not only those who are in mission territories, but also many other Bishops and prelates, who are not strictly within mission territories, often turn their eyes to Rome, in order to seek suitable ecclesiastical teachers who have been educated in Rome, who can teach ecclesiastical letters and sciences in their seminaries, in order to properly instruct the local clergy: it has also been shown how much effort and care the Roman See has expended in order to erect seminaries in mission territories, so that through them the clergy of each place might be increased, as if from perennial sources, and that the clergy native to those places, who would serve in those same missions, would never be lacking (1). Therefore, in order that this Seminary might be of some help to these needs, we have assigned it this particular purpose, namely: to educate and teach students so that they may become suitable for teaching ecclesiastical letters and sciences in seminaries erected or to be erected in mission territories, or in other places where the same need exists (1). We do not wish to pass over in silence what happened to us ourselves after the

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program of which we are speaking had been printed, but not yet published. A certain Prefect of the African missions, coming to Rome, recounted to us in a friendly manner that he had found a very suitable place and had obtained a magnificent building in the more accessible regions of Africa, where not only Negroes from the interior of Africa lived well, but also Europeans: and that he needed ecclesiastical men who would instruct the Negroes in that place: since neither he nor his few companions, devoted to more demanding labors, could undertake this; and he asked us whether we knew of such ecclesiastical men who would be well suited for this: to which we replied: that we were considering in our presence the method by which such invaluable men could be found: and indeed, we handed him the program that had been printed. After reading it, he said, may God grant that this program be put into execution!

[*Latin ed. p. 693*]

— 5 — necessity, especially considering the offerings that will come from the locations indicated in the second part, a goal which, as far as we know, other institutions of this kind do not consider as their primary objective. And indeed, there is no place more fitting within the Catholic world than Rome, the center of Catholic unity, where the Apostolic doctrine and the Catholic tradition have never failed, nor have they been obscured by any shadows, in which such a Seminary could be established for this purpose. However, the two difficulties mentioned above must nevertheless be overcome. Both difficulties seem to be able to be overcome through the most extensive association of Ecclesiastical persons (whom we have invited and invite to assist in this work), which is outlined in the program. For the Promoters (who constitute the principal order of the association) will fulfill two duties: one is to suggest a person whom they consider truly suitable for the purpose of the Seminary. And it is clear that, with so many Promoters, if each suggests a person, a splendid and secure selection can easily be made; and thus, we seem to have overcome the first difficulty. The second duty that the Promoters have is to promote offerings according to the charity of the Catholic Church, and to collect them in the places where they are; which, when requested, they will safely send to Rome: and as many students will be received in the Seminary as there are offerings for which they can prudently foresee a need: the number of students will increase or decrease depending on the increase or decrease in offerings. In the meantime, if more substantial offerings are received (unless the intentions of the donors prevent it, or necessity does not demand it), care will be taken to use them fruitfully in some way for the benefit of the Seminary: and therefore, it seems that sufficient provision has been made to overcome the second difficulty. Even more so, because the Seminary itself is being established as a source for increasing and perpetuating the association; for the students who come from the Seminary must exercise the office of

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Promoters in the places to which they are sent. But some might suggest that, in the present times in which we live, such an institution is not opportune. Certainly, we would concede, if the work were to be perfectly carried out in the present day, we would give way: for these days, in Italy and especially in Rome, many other matters of much greater importance demand the most intense attention of all the faithful; for it is a matter of the triumph of the Catholic Church against its most bitter enemies. However, when it comes to

[*Latin ed. p. 694*]

— 6 — Let us be confident in our triumph, and in the meantime, it is not inopportune to consider the work that, after the conversion or reformation of those who have abused the name of Christ, and with peace restored, will shine forth; and let all be prepared so that then nothing remains except to more eagerly set our hands to the work, the usefulness of which will appear all the more splendid, the greater the need that is revealed. In the meantime, it is necessary to establish a broad society of ecclesiastical men, whom we have called Promoters. The duties of these Promoters should be defined as follows: I. The Promoter will bring the work to the knowledge of the faithful and their friends, for this purpose, so that they may contribute some sum of money, however small, each week, or each month, or in another way, as the Promoter himself may judge best. II. The names of those offering, and the offerings, whether promised or collected, will be carefully written in a book. III. In order to more effectively obtain what was stated in the first place, the Promoter may, as often as he wishes, prepare a sheet in the vernacular language in which a brief account of the work is contained, and its usefulness (1), and send it to Rome, so that it may be set in type; and as many copies as he wishes may be sent back, so that he may distribute them as he pleases. IV. When students are to be chosen, all Promoters will be invited to suggest a person whom they consider truly suitable for instructing in the aims of the Seminary, after a sincere explanation has been given to that person, so that, after a scrutiny has been carried out in Rome by the Presidents, and with due observance of the necessary procedures, students may be chosen who can be admitted. V. Until the first invitation has been made to the Promoters, and the first students have not been chosen in Rome, the fixed offerings promised by the contributing members will not yet begin; but then they will begin to be paid, when the first students have been chosen in Rome. VI. The Promoters who have first given their names to this excellent undertaking must especially take care of two things: I. that the number of suitable Promoters is increased, II. that, in the meantime, they seek out the names of those who promise fixed offerings, which will begin to be paid at the time indicated in N. V. (1) While so many heroes are leaving their homeland and migrating to foreign lands, in order to cultivate the abandoned vineyard of the Lord and water

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it with the sweat of their brow, the students of the Latin Seminary will be those who will draw forth the sources of water in those places, so that the arid and abandoned fields of the Vineyard of the Lord may be made fertile by their own waters.

[*Latin ed. p. 695*]

— 7 — Those who desire to undertake the office of Promoters within this society shall send a letter to Rome, in which shall be contained their Name and surname, Title of dignity or office, Diocese, City and Pago, and their Domicile. To these shall be added: the Ephemerides, which are inscribed in the ACTA, and the name of the associate reader, if such there be; otherwise, nothing shall be added. The direction of the letter, however, must be inscribed as follows: To the Director of the Latin Ephemeris ACTA, at the residence of Mr. Peter Marietti, in Rome. All, whether Clergy or laity, who wish to belong to the Society of the Prince of the Apostles as Oblate Associates, may send letters with this inscription, specifying in the letter the oblations, whether ordinary or extraordinary. In places where Promoters already exist (whose first catalog we have given above), they shall address themselves to those. For the Oblate associates in this society shall regularly refer themselves directly to the Promoters; and the Promoters shall refer themselves to the Presidents, when the entire society has become sufficiently large and numerous. We have also been asked to determine a fixed sum of money that may be demanded from those who wish to belong to this society as Oblate Associates. But we entirely refrain from making such a determination: for we have entrusted this matter to the judgment and prudence of the Promoters, as is evident from No. 1. For the conditions of places and persons are very different, which the Promoter in his place will know much better. However, no one should be excluded from the number of Oblates who contributes only one small coin each month, for all those who repeatedly contribute financial assistance according to their will are included in the census of Oblates; or if, on one occasion, their offering is of such a nature that it is worthy of consideration, as is stated in the Program, page 3. The oblations which we have received in Rome, of which we shall give a table with the names of the Oblates in due time, seem to follow a certain average proportion, so that simple Presbyters may promise two, while those of greater standing may promise six Roman scudi annually, payable in three monthly installments. We have said a certain average proportion; for there are both smaller and much more substantial oblations. When the work has acquired sufficient substance and amplitude, we shall humbly offer it to the Apostolic See, so that...

[*Latin ed. p. 696*]

—8— He should consider this garden, not only designed for nurturing tender shrubs, but also for adorning it with flourishing trees, making it

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pleasing to the eye, and established with the aid of the Catholic Clergy for the purpose of increasing the Christian name, as something to be highly valued, desiring that it be called and be the Seminary of the Holy See. We seem to have satisfied all these things with various declarations concerning the published Program up to this point. Finally, each one among the Promoters should consider the work of which we are speaking as if it truly and solely depends on the proper, diligent, and faithful performance of his office: nor should he forget to cultivate the most sacred Host in this work, just as Peter and Paul sowed and cultivated their garden; the virtuous Virgin, peacefully contemplating the garden, should seek out the hidden snakes in the grass, whose necks she should immediately break and uproot the thistles: but the Heart of the Lord should irrigate the garden with living waters and enrich the entire work with the dew of His grace.

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